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THE  
CAPE OF GOOD HOPE  
GOVERNMENT PROCLAMATIONS,  
FROM 1806 TO 1825,  
AS NOW IN FORCE AND UNREPEALED;  
AND THE  
ORDINANCES PASSED IN COUNCIL  
FROM 1825 TO 1844:  
WITH  
NOTES OF REFERENCE TO EACH,  
AND A COPIOUS INDEX.

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IN THREE VOLUMES.

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VOL. III.

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BY  
MR. WALTER HARDING,  
CLERK OF THE PEACE FOR THE DISTRICT OF SWELLENDAM.

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CAPE TOWN:  
A. S. ROBERTSON, 21, HEEREGRACHT.

1845.

SAUL SOLOMON,  
"Gazette" Office, Cape Town.

VOL. III.

MR. WALTER HARDING

CAPE TOWN:

A. E. ROBERTSON, STATIONER

1881

1881



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## ADVERTISEMENT.

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THE inconvenience which has arisen in the publication of this Volume, owing to the Compiler's residence in the country, and the delay thereby occasioned in the printing, has been the cause of its not sooner appearing.

The 4th Volume will contain the *Local* Ordinances, the unrepealed Proclamations from May 1825 to December 1838, the Charter and the Acts of Parliament, &c. not given previously; as also the Ordinances enacted after the present Volume was concluded.

The Master and Servants' Order in Council (p. 240) having expired, the Ordinance No. 50 (vol. I, p. 463) is now again in full force.

*Swellendam, 1st January 1845.*

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ADDENDUM

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## Proclamations, Ordinances, &c.

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[The following two Proclamations were omitted in the First Volume of this Compilation.]

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### *Proclamation by His Excellency Du Pré, Earl of Caledon, Viscount Alexander, and Baron Caledon of Caledon, &c.*

WHEREAS it has been signified to me, that great inconvenience arises to the Public for want of a sufficient Schedule of Tariff of the Stamps (1) necessary to be used in Deeds or other Public Instruments, according to the existing Laws of this Colony; from which cause considerable risk is run by individuals of having their Deeds invalidated, and of being themselves exposed to prosecution in such cases in which Licences or other Acts are necessary for them to be possessed of, on paper of a stamped value, proportioned to the value of the object.

Proclamation  
Dec. 24. 1807

Stamp Duties

I have therefore thought it proper to take the same into consideration, and having carefully examined the existing Schedule, I have endeavoured to supply the deficiency complained of, and at the same time to apportion the future value of the stamps to the relative value of every other article at the present moment, in order that His Majesty's Revenue may continue equal to the exigencies of the Colony.

I do in consequence, by virtue of the powers vested in me, direct, that the following stamps be used in the several transactions specified in the herein-after-mentioned Schedule: And I do hereby declare every Deed null and void, according to law, which shall not henceforth be drawn out upon, or covered with, the stamp now ordered; and I call upon the Honourable Court of Justice to take especial care that the provisions of this law be properly enforced, as far as the cognizance of the court permits.

And whereas great injury has been done to His Majesty's Revenue by persons neglecting to take out the licences directed

(1) Vide Proclamation 10th Dec. 1824, Vol. 1, p. 258.

Proclamation  
Dec. 24, 1807

under the circumstances of their respective cases, I do therefore think it necessary especially to warn all

Vendue Masters,  
Butchers,  
Bakers,  
Wine Merchants,  
Clubs and Societies,  
Keepers of Public Billiard Tables,  
Retail Shopkeepers in Cape Town,  
Persons grazing their Cattle in the Kaapsche Vlakte,  
Carriers of Fire-wood in ditto, and  
Boatmen,

not to fail in taking out such licences forthwith, on pain of being fined triple the value thereof, over and above such other penalty as has been imposed by former Proclamations in each case.

And His Majesty's Fiscal is hereby directed to institute legal proceedings for the recovery of the said fines, against all persons who may be found neglecting to attend to the provisions of this enactment.

24th December, 1807.

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*Proclamation by His Excellency General the Right Hon.  
Lord Charles Henry Somerset, &c. &c.*

Proclamation  
Dec. 6, 1822.

Regulations  
for baking  
business.

WHEREAS it has clearly appeared to me, upon the maturest consideration, that the Regulations under which the Baking Business in Cape Town and Simon's Town is controlled, have proved completely inefficient for securing to the Public, good Bread of the several qualities allowed to be vended, at the lowest prices which the state of the markets might have afforded; and it is therefore expedient to alter the present system, by throwing open the Baking Trade, subjecting it to the following Regulations only, viz. : (1)

1st. Any person, being a Burgher of this Colony, or having the Privileges of Burgher, wishing to carry on the Baking Business in Cape Town, shall take out an Annual Licence, to that effect, as usual, at the office of the Colonial Secretary—such licence to commence at the period of its signature, and to terminate at the expiration of the year, or at any antecedent period the holder shall think proper.

2d. Each baker shall give notice at the office of the Fiscal and Burgher Senate, where his bakery is situated; and he shall be bound to affix a board, with his name thereon, over the door of his shop.

(1) Vide Ordinance, No. 2,—1838, Vol. 2, p. 495.



- 3d. Each baker shall bake bread of three qualities only, viz. :  
 Fine bread, made of the purest flour,  
 Bread made of meal, from which the bran only has been  
 extracted,  
 Brown bread, made of unsifted meal, as it comes from  
 the miller,

Proclamation  
 Dec. 6, 1822.

which bread, until further orders, shall be sold by the Loot.  
 The loaves shall be marked with the baker's initials.

4th. Each baker shall fix the price, weekly, at which he will  
 sell bread and flour during the following week; and these  
 Prices shall be sent to the Burgher Senate every Thursday, by  
 10 o'clock in the forenoon, in order to enable the Burgher  
 Senate to issue timely notice to the public, through the medium  
 of the *Gazette*, of the price at which bread and flour may be  
 obtained during the following week—so that each person may  
 know where he can procure bread at the cheapest rate.

5th. His Majesty's Fiscal, as well as the Burgher Senate, or  
 any Commissioned Member thereof, shall have the right of  
 visiting the bakers' shops when they think proper, in order to  
 ascertain that the quality and weight of the bread are, in each  
 respect, conformable to the regulations;—and if any baker be  
 detected with bread in his possession of a bad quality, that is,  
 not conformable to that allowed to be prepared by the 3d Article  
 of these regulations, such baker shall be liable to be fined in a  
 Penalty not exceeding 100 Rds. for a first Offence,—and not  
 less than 100 Rds. nor exceeding 200 Rds. for any subsequent  
 offence;—and if any baker be detected with Loaves deficient in  
 the weight which they ought to have, such baker shall be liable,  
 on conviction, to be fined in a Sum not exceeding 150 Rds. for  
 a first offence,—and not less than 150 Rds. nor exceeding 300  
 Rds. for a second offence,—and for any subsequent offence, he  
 shall be liable to a fine of 500 Rds.

6th. Licensed bakers only shall be allowed to sell bread or  
 sea biscuit, under a penalty of 500 Rds.;—neither shall any  
 other persons sell flour made of Cape wheat, in a less quantity  
 than 200 lbs. without becoming liable to a like penalty of  
 500 Rds.

7th. The aforesaid regulation is not applicable to such persons  
 as shall contract for the supply of the army or navy, in so far as  
 such contracts are concerned.

8th. All bakers shall be bound to conform to such regulations  
 as the Burgher Senate have issued, or shall issue, respecting  
 the Colonial Granary, the importance of supporting which, of  
 keeping an adequate quantity of grain therein, and of adopting  
 measures for the regular change of the corn stored, are too  
 obvious to require further notice.

9th. All fines incurred by the contravention of the aforesaid  
 Regulations, shall be sued for and recovered in the usual manner.

10th. It is to be generally understood, that persons or

Proclamation  
Dec. 6, 1822.

families purchasing bread or flour, should pay *ready money* for the same; but as it may suit the convenience of the bakers and families rather to settle their accounts together weekly or monthly, no restraint is intended to be put upon such mutual accommodation; but it is hereby made known, that should any baker give a longer credit than two months, it must be entirely at his own risk, as such debt will not henceforward be recoverable in any of the courts of this colony,—of which the Worshipful the Court of Justice, and the Courts of Landdrost and Heemraden are to take due notice.

11th. These regulations are to take effect and be in force from the first January next, 1823.

And that no person may plead ignorance hereof, this shall be published and affixed in the usual manner.

*God save the King!*

Given under my Hand and Seal, at the Cape of Good Hope, 6th Dec. 1822.

(Signed) C. H. Somerset.

By His Excellency's Command,

(Signed) C. Bird, Secretary.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

Ord. in Coun.  
July 30, 1838.  
Contracts for  
Service.

WHEREAS I have received the Order of Her Majesty in Council following,—that is to say:—

At the Court at Buckingham Palace, the 30th day of July 1838; Present, the Queen's Most Excellent Majesty in Council. Whereas, in pursuance of the Laws in force in the Colonies of British Guiana, Trinidad, St. Lucia, the Cape of Good Hope, and Mauritius, Contracts for Service in Agriculture, or in the Manufacture of Colonial Produce, to be performed within the said Colonies respectively, have been, and may be, made with persons not being at the time of entering into such Contracts within the limits of the Colony, within which such Service is to be performed, and it is expedient that the Law of the said Colonies respectively should be amended in that behalf,—It is therefore ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Privy Council, that from and after the arrival of this present order within any of the said Colonies, all Contracts which may at any time thereafter be made for the performance within the same of any Service, or Labour in Agriculture, or in or about the manufacture of any Colonial Produce, shall, within such Colony, be, and be taken, by all Courts, Judges, Justices, Majistrates, and others therein, to be null and void, and of no effect, unless the person or persons thereby contracting to perform any such Service, or Work shall at the time of entering into any such Contract have been



within the limits, and upon the land, of the Colony within which such Service or Labour is to be performed by him, her, or them.

Ord. in Coun.  
July 30, 1838.

And whereas it may be necessary, hereafter, to make and establish Regulations for and in respect of Contracts to be made within the limits of the said respective Colonies, for the performance of such Service or Labour as aforesaid, it is therefore hereby ordered and declared, that, any such Contracts as shall hereafter be made for that purpose within the said respective Colonies, shall be subject to all such Rules, and Conditions, as shall hereafter be imposed by Law, upon the Parties entering into the same.

And for the prevention of all doubt, as to the time of the arrival within the said Colonies respectively of this present Order, the respective Governors or Officers for the time being, administering the Government thereof respectively, shall, and they are hereby respectively required, to issue Proclamations, reciting at length this present Order, and stating the Days of the Months and Years, respectively, in which the same was received by them respectively, and upon and from the day so stated, in each such Proclamation respectively, this present Order shall have the force and effect of Law within the said respective Colonies.

And the Right Honorable Lord Glenelg, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. Greville.

Now, therefore, in pursuance of the Provision to that effect in the said Order in Council contained, I do hereby proclaim and make known, that the said Order in Council was received by me on the 8th Day of this present Month of December, 1838. (1)

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 10th Day of December 1838.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

WHEREAS complaints are frequently made that Licences for the Retail of Malt, Spirituous, or other Liquors have been issued, particularly in the Country Districts, either to improper persons, or for improper Places; His Excellency the Governor desires to

Govt. Advt.  
Dec. 12, 1838

Spirituous  
Liquors.

(1) See Order in Council, 22nd August 1842.

Govt. Advt.  
Dec. 12, 1838

direct the attention of the Magistracy to this very important subject, prior to the issue of Licences for the ensuing year.

2. The Ordinance No. 93, Section 5, *empowers* Resident Magistrates to grant Certificates, on which alone Licences can be issued, but does not *require* them so to do. It rests, therefore, in the discretion of the Magistrate to grant or refuse such Certificates without reason assigned, and he is not answerable for any such refusal, if it be not proved that in making it, he was actuated by improper motives towards the applicant.

3. There are many valid grounds for refusal; amongst others,—the number of applicants for Public Houses, at places where they are already but too numerous; or at places so distant as to render all control over them impossible;—good reason assigned by the residents at places where such houses have been misconducted; or where their conversion into Canteens is not called for by the Community in which they are proposed to be placed, but merely by the cupidity of Speculators in Drunkenness.

4. The Magistrates will be pleased to divest themselves, in this respect, of all idea of benefiting the Revenue by increasing the number of Drinking Houses; for were it possible to put an end to Drunkenness by their entire suppression, the Government would gladly purchase so great a blessing for the Colony, at the expense of all the Revenue derived from that source.

5. Experience has proved, however, that the torrent of this overwhelming Vice cannot be stemmed by such means; for wherever the existing Public Canteens have been closed by Authority, it has been found that Drunkenness has only flowed in more secret and dangerous channels, beyond the control of the Magistracy or the Police.

6. The Magistrates will be justified in refusing a Certificate to any one who has hitherto habitually left the care of his Licensed House to Servants only,—or who is, from his situation in life, likely to do so, if he obtain one.—The Transfer of Licences also requires the utmost attention of the Magistrate.

7. With the Magistrates, then, lies the immediate power of remedying many, if not all, the evils complained of under the present Licensing System; and to this most important part of their duty, His Excellency desires to call their closest attention; and in so doing, he regrets that there is but little prospect of their receiving any assistance from the Inhabitants,—for in scarcely one instance, has any one ever come forward to assist in the suppression of an evil which every one deplors. (1)

Colonial Office, Cape of Good Hope, 12th December 1838.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

(1) See Government Advertisement, 7th January 1839, *infra* p. 11.



*Government Advertisement.*

Govt Advt  
Dec. 27, 1838

Destitute  
Children.

*Apprenticeship of Orphan and Destitute Children of Color. (1)*

WHEREAS doubts appear to have been entertained as to the true nature of the object for which the Law has sanctioned the apprenticeship of the Orphan or Destitute Children of Persons of Color;—His Excellency the Governor desires to call the attention of those Officers, to whom authority in that respect is committed, to the following general principles, which they will be pleased to bear in mind upon all occasions of making such apprenticeships.

1 The good of the child is the paramount object in every such indenture.

2. On a child being brought up before the indenturing officer on account of alleged orphancy or destitution, the officer's first care will be to ascertain the actual state and condition of the child in either of those respects.

3. If the individual so brought up prove to be one able and willing, or capable, to earn his or her own livelihood, although under the age of 18 or 16 years respectively, then there can be no sufficient reason why any indenture should be made, and the officer will decline to act in the case.

4. If the individual be of tender years, incapable of providing for its own livelihood; or having lost, or been abandoned by both its parents; or having lost one parent, being abandoned by the other, and thus reduced to destitution: then the officer will cause it to be provided for at the public cost, until he shall have correctly ascertained by inquiry whether it have any relation inclined and competent to take care of it: And if there be such relation or relations, so qualified, he will indenture it either to the sole relation, or to that one amongst the several relations whom he shall deem most competent to do justice to the child, as the case may be; in either case, he making the best terms he can for the child.

5. No such child shall be indentured to the person with whom it or its parent or parents served as apprenticed laborers, unless with its own full and free consent.

6. The terms parents or relatives, as hereinmentioned, are to be understood, as comprehending reputed parents or relatives.

7. Wages are to be stipulated for in every indenture, where the officer, acting as Guardian for the person indentured, thinks that his or her service is worth wages.

8. The word "orphan" as used in the laws relative to such indentures, is to be understood as applicable rather to a child of tender years, or in very early youth, than to a young person

(1) See Order in Council, 22d August 1842, *infra*. *Vide* also Ordinance, No. 49, *supra* vol. 1, p. 455, and No. 3, 1838, vol. 2, p. 497.

The following form of Indenture, to be used in such apprenticeships, has been transmitted to the several indenturing officers.

By Command of His Excellency the Governor.

(Signed) John Bell,  
Secretary to Government.

And the said \_\_\_\_\_ for himself, his heirs, executors, and assigns, doth covenant and agree with the said \_\_\_\_\_ that the said \_\_\_\_\_ will teach and instruct, or cause the said \_\_\_\_\_ to be taught and instructed in the trade of a \_\_\_\_\_ in the best manner that he can, during the said term; and also shall duly provide, or cause due provision to be made for the education and religious instruction of the said \_\_\_\_\_ to the best of his ability; and shall and will, during all the time aforesaid, find and provide for the said Apprentice suitable and sufficient Meat, Drink, Clothing, Washing, Lodging, and all other things necessary and fit for the said Apprentice, at any time during the said term; and also shall pay as wages to the said \_\_\_\_\_ the sum of \_\_\_\_\_ on the \_\_\_\_\_ day of every month during the subsistence of this Indenture; and also that the said \_\_\_\_\_ should not assign or transfer the said Apprentice to any other Person whatever,



during the said term, without the consent, *in writing*, first had and obtained of the said

Govt. Advt.  
Dec. 27, 1839

IN WITNESS whereof, We, the said \_\_\_\_\_ and the  
said \_\_\_\_\_ have, to this Contract, in three parts, inter-  
changeable set our Hands the Day and Year aforesaid.

In presence of

*Government Advertisement.*

MANY Memorials having been from time to time addressed to the Governor, praying for his interference in cases of reputed nuisance, of public disorder, drunkenness, indecency, brawling and fighting in the streets, &c. &c., His Excellency deems it necessary that the Inhabitants of this Colony in general, and those who have signed such Memorials in particular, should be made perfectly aware both of his power and their own in such cases.

Govt. Advt.  
Jan. 7, 1839.

### Nuisances and Disorders.

Persons believing themselves to be aggrieved should first ascertain whether the act by which they deem themselves aggrieved is constituted by law a punishable offence. If it is, then the law which so constitutes it, points out the remedy, and designates the Magistrate in whom is vested the requisite jurisdiction. His Excellency has no power to take that jurisdiction from the Magistrate, and assume it himself; neither can he punish any person for doing that which the law has not declared an offence.

If the Executive Police be remiss in the execution of their duty, or connive at, instead of suppressing, offences; or if the Magistrates be backward in dealing with offenders fairly brought before them;—then the Governor's intervention becomes not only lawful, but necessary, and will not, most assuredly, be refused; but he has no power to alter or set aside a judgment pronounced by any Court or Magistrate.

Complainants cannot, however, but be sensible of the extreme difficulty, if not impossibility of putting down disorder by means of the executive power acting alone, and unsupported save by the authority of the law; for the presence or the approach of a Constable is immediately known to those whom he is looking after, and his object is in most cases frustrated before it can possibly be effected. If the Constable succeed in apprehending, there is often an absence of eye-witnesses to the facts alleged, by which the case not only breaks down in Court, but the Constable himself risks an action being brought against him for false imprisonment.

His Excellency is quite aware of the odium which almost universally attaches to the office of Common Informer; but he apprehends that in this Colony it is not generally understood how great is the difference in character between him who informs in

Govt. Advt.  
Jan. 7, 1839.

revenue cases, with no higher object than securing a share of the penalty, and the man who, seeking his reward only in the conscientious performance of a public duty, steps forward to assist in the suppression of disorder, riot, and debauchery. Were such an example given and followed; were the respectable and the reflecting among the inhabitants to resolve on allowing no offence against decency and good order to pass under their observation without proper and timely notice, with a view to the punishment of the offender:—then the efficiency of the Executive Police would be fairly tested; and there cannot be a doubt that it would be enabled to act with tenfold effect, not only in the cases adverted to, but in a multiplicity of minor offences of every day recurrence, which are known to be committed, but can seldom be dealt with,—the perpetrators well knowing their chance of evading all vigilance, save the vigilance of the neighbourhood were that but once awakened.

In other countries enjoying free institutions, and regular laws, the people themselves take a really active part in the promotion of all that regards their own immediate interest and comfort as a society; and it is reasonable and necessary that they should; for it is nothing more than a duty which every man owes to his fellow citizens, his family, and himself, to assist the Magistrate in repressing, rather than passively to suffer, the continuance of those scenes of riot and debauchery which disgrace a community, and disgust all but the unfortunate creatures engaged in them.

It has been stated that these persons, if remonstrated with, assert their privileges, as “free burghers,” to do what they please; but this assertion is absurd, for no person, of whatever class, color, or condition is privileged to outrage public decency and order with impunity.

His Excellency trusts, that after this plain exposition, his motives, in declining to interfere in such cases, will not be misunderstood. He will always be most ready, to attend to every application made to him, provided its object be within the scope of his legitimate power: but it is irksome to receive complaint when legal redress not only does not lie with him, but is to be found elsewhere. He believes that a large portion of this society are really and truly most anxious for the promotion and maintenance of good order; but he is at the same time satisfied that the Magistrates are not less sincere in that respect, and will not fail to use their lawful authority on every occasion where it can be interposed for such a desirable purpose. That such offences abound, is known to, and lamented by all; and the moral reputation of this Settlement cannot but suffer by their continuance; for it is not the Government, the Magistracy, nor even the unwearying efforts of the Clergy, that can redeem or greatly amend the character of a whole people, unless the force of public opinion be arrayed against vice and immorality. Without this, the blessings of religion, of education, and of civil liberty



will lose more than half their value;—and with it, the law will be enabled to vindicate its own dignity with irresistible effect. (1)

Govt. Advt.  
Jan. 7, 1839.

Colonial Office, Cape of Good Hope, 7th January 1839.

By His Excellency's Command,

(Signed)

John Bell,  
Secretary to Government.

### *Government Advertisement.*

HER Majesty, having been graciously pleased to cause a new Commission to be issued under the Great Seal, for the Trial within this Colony of Offences committed on the High Seas,—His Excellency the Governor has directed the same to be published for general information.

Govt. Advt.  
Jan. 18, 1837

Offences on  
the Seas.

Colonial Office, Cape of Good Hope, 18th January 1839.

By Command of His Excellency the Governor,

(Signed)

John Bell,  
Secretary to Government.

VICTORIA. by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :

*To our Governor of our Colony of the Cape of Good Hope and its Dependencies, and to the Governor of our said Colony for the time being ; to our Lieutenant-Governor of our said Colony, and to the Lieutenant-Governor or Officer administering the Government of our said Colony for the time being ; to the President and several Members of the Council of the said Colony, and to the Members of the said Council for the time being ; to our Chief and other Judges of our said Colony, and to the Chief and other Judges of the said Colony for the time being ; to the Judge of the Court of Vice Admiralty for the said Colony, and to the Judge of the said Court for the time being ; to the Public Secretary of the said Colony, and to the Public Secretary of the said Colony for the time being ; to the Public Treasurer of the said Colony, and to the Public Treasurer of the said Colony for the time being ; to our Commander in Chief, and to the several Flag Officers of such Squadron of our Ships of War as shall happen to be in any of the Ports or Roadsteads of our said Colony for the time being ; and to our several Captains and Commanders of such of our Ships of War, as shall happen to be in any of the Ports or Roadsteads of our said Colony for the time being, and to each and every of them—GREETING :*

WHEREAS by an Act made in the twenty-eighth Year of the Reign of King Henry the Eighth, intituled "An Act for Pu-

(1) See Government Advertisement, 12th Dec., 1838, *supra*, p. 5.

Govt. Advt.  
Jan. 18, 1839

nishment of Pirates and Robbers of the Sea," which Act is extended and explained by three other Acts—the first made in the thirty-ninth Year of King George the Third, and intituled "An Act for remedying certain defects in the Law respecting Offences committed upon the High Seas;"—the second made in the forty-third Year of King George the Third, intituled "An Act for the more effectually providing for the Punishment of Offences in wilfully casting away, burning, or destroying Ships and Vessels, and for the more convenient Trial of Accessories in Felonies, and for extending the Powers of an Act made in the thirty-third Year of the Reign of King Henry the Eighth, as far as relates to Murders, to Accessories to Murders, and to Manslaughters,"—and the third made in the first Year of His late Majesty King George the Fourth, and intituled "An Act to remove Doubts and to remedy Defects in the Law, with respect to certain Offences committed upon the the Sea, or within the Jurisdiction of the Admiralty," certain Powers and Authorities touching all Treasons, Felonies, and other Crimes and Misdemeanors committed in or upon the Sea, or in any Haven, River, Creek, or Place where the Admiral has Power, Authority, or Jurisdiction, are given to certain other Commissioners constituted as therein provided, after the course of the Common Law of this our Realm, to enquire, try, and determine the same within this Realm.

And whereas by another Act made in the forty-sixth Year of the Reign of King George the Third, intituled "An Act for the more speedy Trial of Offences committed in distant Parts upon the Sea," the like Powers and Authorities touching all Offences so committed as aforesaid, are given also to certain other Commissioners constituted as by the last mentioned Act is provided, after the course of the Common Law, to enquire, try, and determine the same in any of our Islands, Plantations, Colonies, Dominions, Forts, and Factories.

And whereas by another Act made in the fifth Year of the Reign of His said late Majesty King George the Fourth, intituled "An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade," the Commissioners constituted according to the said Act of the forty-sixth Year of King George the Third, are invested with the like Powers and Authorities to enquire of, try, and determine all Offences against the said Act of the fifth Year of the Reign of His said late Majesty, which shall be committed in any Place where the Admiral has not Jurisdiction, and not being within this our United Kingdom, nor within the local Jurisdiction of any ordinary Court of a British Colony, Settlement, Plantation, or Territory, competent to try such Offences.

And whereas by another Act made in the seventh Year of the Reign of His said late Majesty, intituled "An Act to enable Commissioners for trying Offences upon the Sea, and Justices



of the Peace, to take Examinations touching such Offences, and to commit to safe custody Persons charged therewith," certain Powers and Directions are given to any one or more of the Commissioners constituted according to the said Act of the forty-sixth Year of King George the Third, to take Informations on Oath, and to apprehend and commit, or bail, the Parties charged. (1)

Know ye, therefore, that we, confiding very much in your Fidelity and careful Circumspection, have appointed you, or any one of you, our Commissioners or Commissioner, to take such Informations, and to apprehend and commit, or bail such Persons, under such circumstances and in such manner as by the said Act of the seventh Year of the Reign of His said late Majesty is provided in that behalf, and have also appointed you, or any three of you, (of which number our Will and Pleasure is, that our said Governor, Lieutenant-Governor, or other Officer administering the said Government, our said Chief Judge, our said other Judges, or one of them, or our Judge of our said Court of Vice Admiralty, respectively, for the time being, shall always be one,) our Commissioners, to enquire upon the Oath of good and lawful Men of our said Colony, and by other ways, means, and methods, according to your best knowledge and ability, as well within Liberties as without, whereby the Truth of the Matter may be the better known and enquired into, concerning all Treasons, Piracies, Felonies, Robberies, Murders, Conspiracies, and other Offences whatsoever, and Accessories thereto, whomsoever, and howsoever done or committed, or hereafter to be done or committed, upon the Sea, or in any Haven, River, Creek, or Place, where the Admiral has Power, Authority, or Jurisdiction; and also concerning all Offences against the said recited Act of the fifth Year of the Reign of His said late Majesty, which shall be committed in any Place where the Admiral has not Jurisdiction, and not being within this our United Kingdom, nor within the local Jurisdiction of any ordinary Court of a British Colony, Settlement, Plantation, or Territory, competent to try such Offences, and to hear and determine all the Offences aforesaid, according to the Laws and Customs of this our Realm, and the Statutes hereinbefore mentioned, and all other Statutes in that behalf made and provided: And, therefore, we command you, that you and each of you, diligently discharge the respective Duties of taking Informations, and of Apprehension, Commitment, and Bailment as aforesaid; and that at certain Times and Places, which shall be prefixed for this purpose by you, or any three of you at the least, (of which number our said Governor, Lieutenant Governor, or other Officer administering the Government, our said Chief Judge, our said other Judges, or one of them, or our said Judge of our said Court of Vice Admiralty,

(1) See the Appendix.

Govt Advt.  
Jan. 18, 1839

respectively, for the time being, shall always be one,) you diligently enquire of, try, and determine all the said Premises, and do in manner aforesaid all things to be done thereupon as appertains to Justice, according to the said Laws, Customs, and Statutes of this our Realm; and we do by these Presents command, that it be in our Name strictly enjoined to the Provost Marshal, or Deputy Provost Marshal, of our said Colony, and others whom it may concern, and to every of them as well within Liberties as without, that at certain Times and Places when and as often as need shall require, which our said Governor, Lieutenant Governor, or other Officer administering the Government for the time being, shall make known to them, or either of them, in form aforesaid, they cause to come before you, or any three of you at the least, (of which number our said Governor, Lieutenant Governor, or other Officer administering the said Government, our said Chief Judge, our said other Judges, or one of them, or our said Judge of our said Court of Vice Admiralty, respectively, for the time being, shall always be one,) so many good and lawful Men of our said Colony, as well within Liberties as without, by whom the Truth of the Matter concerning the Premises may be the better known or enquired into; commanding, moreover, all Governors, Justices, Mayors, Sheriffs, Bailiffs, Stewards, Constables, also the Keepers of Gaols and Prisons, and all other Officers and Ministers, and all other our faithful and liege Subjects whomsoever, that from time to time in the execution of the Premises, and every of them, they be assisting and yielding Obedience to you, and every of you.

In Witness whereof, We have caused these our Letters to be made Patent.

Witness Ourselves at Westminster, the Eighteenth Day of May, in the First Year of our Reign.

By Writ of Privy Seal,

Edmunds.

*Proclamation, by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

Proclamation  
Feb 5, 1839,

Explanation  
of the Terms  
"District" and  
"Division."

WHEREAS from the increase of Resident Magistrates' Courts, and the term DISTRICT having been used to designate the Territory subject to the Jurisdiction of such Courts, and the Territories under the Administration of the several Civil Commissioners, indiscriminately,—it has become expedient to distinguish the Districts subject to the Jurisdiction of such Courts respectively, from the Territories under the Administration of the respective Civil Commissioners.



I do, therefore, hereby order, proclaim, and make known, that, from and after the date of this Proclamation, in all Proclamations, Government Advertisements, and Government Notices the term *DIVISION* shall be used to designate the Territory under the Administration of each of the Civil Commissioners respectively.

Govt. Advt.  
Feb. 5, 1839.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 5th Day of February 1839.

(Signed) George Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

HIS Excellency the Governor has been pleased, in concurrence with the Legislative Council, to authorise the several Collectors of Revenue to desist from the Collection of the undermentioned Taxes, which would be otherwise exigible for the present year, 1839, viz :— (1)

Govt. Advt.  
Feb. 5, 1837.

Remission of  
Taxes.

The Tax on Servants,

The Tax on Stock and Produce,

The Tax on Income.

And, further, to receive payment of the Taxes on Carriages, and Horses or Mules, for the said year, modified as follows : viz.—Carriages, of whatever description, whether used or hired for use as Pleasure Carriages, or not,—*such Carriages not being mounted on springs*, shall be chargeable at the same rates, respectively, as similar carriages, finished, fitted up, and used for the purposes of trade or agriculture.

All Horses or Mules used for any purpose whatever, shall be chargeable at the rate of only One Shilling each.

Provided, however, that the several remissions and modifications hereby authorised shall not extend to any of the said Taxes which shall be due for any period prior to the 1st day of January 1839, and shall be for One Year only under this present authority.

It is to be distinctly understood that none of the aforesaid Taxes are repealed, and that the remissions and modifications hereby authorised are *provisional* only, and entirely dependent on the future sanction of Her Majesty.

His Excellency has been further pleased to direct that a sum of £ 3,000, being the estimated amount of the modified Taxes on Horses and Carriages for the present year, shall be appro-

(1) Vide Proclamation, March 1839, p. 18.

Govt. Advt.  
Feb. 6, 1839.

apropriated for the service of the several Divisions (or Districts) in certain proportions, as follows :—

For the Cape District	-	-	-	£ 400
„ Stellenbosch and Albany Districts, each				300
„ Swellendam and Worcester do.	„	{		250
„ Uitenhage and Somerset do.	„	}		
„ Graaff-Reinet and George do.	„			200
„ Clanwilliam, Beaufort, Colesberg, and Cradock do.	„			150

These several sums are to be applied by the Civil Commissioners respectively,—(1)

1st, For the conveyance of *Gazettes* and Official Correspondence to their several Field Cornets;

2nd, For maintaining in proper order the Public Watering and Baiting Places in the District; and,

3rd, For the Repairs or Formation of By-Roads, and providing the necessary Implements for those purposes.

His Excellency trusts that the Remissions hereby announced, and the Provision made for certain Services not hitherto provided for at the public expense,—temporary though they may be,—will at least satisfy the Colonists, and particularly the Farmers, that both the Local Government and Legislature are truly disposed to relieve the inhabitants from every description of taxation which is objectionable, either from its nature, or its unequal pressure on particular classes or individuals.

Colonial Office, Cape of Good Hope, 6th February 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

#### *Government Advertisement.*

Govt. Advt.  
Feb. 14, 1839

Dead Horses.

It having been represented to His Excellency the Governor that some of the Inhabitants of the Country Districts have refused to bury the Carcases of Horses belonging to them,—and as in consequence of the present mortality among those animals the most injurious effects to the general Health of the Colonists may arise from such refusal, His Excellency has been pleased to direct that the following Laws on the subject shall be republished for public information.

Colonial Office, Cape of Good Hope, 14th February 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

#### *Warning.*

WHEREAS daily experience shows, that some of the Inhabitants whose horses, oxen, or other beasts of burden, whether from

(1) Vide *supra*, p. 18.



weakness or other cause, drop down and even die on the public roads or other places,—are in the habit of leaving the same lying there to rot, without further troubling themselves thereabout, by which the air becomes infected, and other inconvenience is occasioned :—We, therefore, with a view of providing against a recurrence of these evils, have deemed meet to order and direct, as we do order and direct by these presents, that, for the future, when, in the Cape or Country Districts, any of the animals above enumerated, or other cattle, shall at any time, from sickness or any other cause, drop down, or must be left on the public roads, or in the vicinity of them, so that nothing else can be expected but that such animal will die; then such animal shall, by those concerned, whether Europeans or Slaves, be thrown into a pit to be dug there, and be covered with earth, under a penalty of Fifty Rix Dollars, to be imposed as a Fine upon such persons as shall be found to have failed in compliance with this order; and the Masters of such slaves as may violate the Law in this respect, shall be held responsible for the amount. Let each one, therefore, take heed of incurring this penalty.

Castle of Good Hope, 4th September 1742.

By Command of His Excellency the Governor in Council,

(Signed)

Js. de Grand Preez,

Member and Secretary.

*Extract from a Public Order of the Governor C. J. van de Graaff, in Council, dated 3d April 1787, and published on the 13th of the same month.*

“AND likewise, in renewing the prohibition against suffering any beasts of burden which may drop down in the public roads, to remain lying there; it is therefore hereby further ordered and directed, that, whenever any beast of burden shall happen to die along the public road, the Owner, whether a company's overseer at the outpost, or any other individual to whom the animal may belong, shall be obliged to cause the same to be buried, in failure whereof, he shall be liable to a fine of 50 Rds.”

*Proclamation by His Excellency Major-General Sir George Thomas Napier, &c. &c.*

WHEREAS by an Ordinance enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, dated the 23d day of January 1839, and entitled “An Ordinance for erecting certain Resident Magistrates' Courts within the Western Division of this Colony, and for defining the Jurisdiction thereof,” it is amongst other things provided, that the said Districts, respectively, shall

Proclamation  
Feb. 14, 1839

Proclamation  
Feb. 26, 1839

Districts  
Paarl and  
Malmesbury.

Proclamation  
Feb. 26, 1839

comprehend such Territory or Territories as the Governor of this Colony, by Proclamation to be from time to time issued for that purpose, shall appoint : Now, therefore, I, in pursuance of the said provision of the said Ordinance, do hereby appoint ;

1. That the Fieldcornetcies of Behind Paardenberg and Honingberg shall cease to form part of the District of the Paarl, as defined by my Proclamation of the 24th day of January 1839.<sup>(1)</sup>

2. That the said Fieldcornetcies shall form part of, and be comprehended under, the District of Malmesbury.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 26th Day of February 1839.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

Govt. Advt.  
Mar. 7, 1839.

Taxes remit-  
ted.

WHEREAS some doubts appear to be entertained as to the true intent and meaning of the Government Advertisement of the 6th February last,<sup>(2)</sup> in regard to the non-collection of certain Taxes, and the partial collection of others, it is hereby notified, that the Taxes to be remitted or modified according to that Advertisement, are those which would otherwise have become due for the present year, 1839, and not those falling due and *becoming payable in 1839*. Therefore, as all Taxes in this Colony are paid in arrear, the remission and modification in question will not take effect, in regard to actual payments, until 1840,—when the Taxes for 1839 will fall due.

Colonial Office, Cape of Good Hope, 7th March 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government;

### *Government Advertisement.*

#### *Communications with Field Cornetcies, and Repairs of By-Roads. (3)*

Govt. Advt.  
Mar. 6, 1839

Communica-  
tions with  
Field Cornets

THE Legislative Council having voted certain sums for the above-mentioned purposes in the several Divisions, His Excellency the Governor has been pleased to direct the following Instructions for the appropriation of the same, to be laid down for the guidance of the respective Civil Commissioners, and to be published for general information.

(1) Vide vol. 2, p. 500.—(2) Vide p. 15.

(3) Vide Proclamation, 6th Feb., p. 16.



*Communications.*Govt. Advt.  
Mar. 6, 1839

The several Civil Commissioners will take immediate steps to ascertain the readiest means of establishing a regular Communication, weekly, or once a fortnight, with their Field Cornets, for the Conveyance of Government Gazettes, Public Letters, &c. &c., to those Functionaries,—whose Reports, Letters, &c. will reach the Civil Commissioner by the same arrangement.

2. Those Field Cornets whose Wards lie around, or nearest to, the Civil Commissioner's residence, will each receive from, and deliver to, the Messengers from the more distant Wards in the same direction, as the case may be, all such Reports, Letters, &c. as shall be addressed to, or forwarded from, those distant Fieldcornetries,—the communications with which, although regular, will yet necessarily be indirect in many instances.

3. The Civil Commissioner will be held responsible that these Communications be so established as to prevent the employment of an unnecessary number of Messengers in maintaining them; and that none be established where the means of communication already exist through the General or Division Post.

4. The expense of this arrangement will be paid by the Civil Commissioners, as an unfixed contingent charge.

5. The Inhabitants being thus relieved from the gratuitous performance of a duty which has been so long complained of, so also are the Field Cornets hereby relieved from a duty which pressed much more heavily upon them,—namely, that of circulating the Government Gazettes amongst the inhabitants of their Wards.

6. It will henceforth be the duty of each Field Cornet regularly to file, or preserve, the copy of the Government Gazette with which he is furnished at the public expense,—for the delivery of which file, complete, to his successor in office, he will be held responsible. Thus there will be in every Fieldcornetcy a record of all future Laws and Regulations to which its inhabitants shall at all proper times have free access.

7. The foregoing Provision shall not, however, relieve the Field Cornet from the duty of immediately apprising the Inhabitants of his Ward of any Law or Regulation more particularly applying to the Country Divisions, when thereto directed by the Civil Commissioner.

8. The Civil Commissioners of adjoining Divisions will be permitted to avail themselves of the facilities afforded by the present arrangement for the establishment of lines of communication for general convenience, which are not as yet provided for by the Post Office Department; but they will clearly understand that such communication cannot be permitted to exist on any Post Road, or to interfere injuriously with the Post Road Revenue.

Govt. Advt.  
Mar. 6, 1839

### *Repairs of By-Roads.*

9. The Roads in question are those which are not already kept up by Government as Public Roads, at the public expense; and are, in fact, the Cross Roads of the Country.

The Public Roads are at present:—the direct Roads from Cape Town to Tygerberg, Stellenbosch, &c., as far as Salt River; the Road to Simon's Town, (including the branches of it passing through Wynberg;) the Somerset (H. H.) Road, from the Church there over Sir Lowry's Pass, and thence to Palmiet River, the Houw Hoek, Attaqua's Kloof, and Cradock's Kloof; and, generally, the whole line of the Coast Road Eastward, travelled by the Post, as far as Graham's Town. These will be maintained by Government; as will also the Fransche-hoek, and Roode-sand Passes. (1)

10. Whatever balance of the sum granted to each Division shall remain after providing for the Communications with Field-cornets, will be disposable for the Repairs in question, including the expense of cleaning public Dams at Outspan Places in those Divisions where they are necessarily kept up; and for the providing of such tools as shall be requisite for such purposes.

11. In the expenditure of such remaining balances, the Civil Commissioners will most scrupulously adhere to the principle on which the grants were made, namely, that the money is strictly disposable for such objects only as shall produce the greatest amount of public benefit and convenience, not the advantage of private Individuals; and they will be held responsible that those benefits are bestowed on the Country parts of their Divisions, and not on the Towns or Villages,—the Inhabitants of which have at all times the opportunity, if they have the desire, to provide for their own wants in those respects.

12. The Civil Commissioners will abstain, during the continuance of the present arrangement, from calling on the Farmers to provide men for the Repair of Roads, except for Wages.

Colonial Office, Cape of Good Hope, 6th March 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

Govt. Advt.  
Mar. 27, 1839

Tariff of  
Wagon and  
Horse hire.

Hrs Excellency the Governor has been pleased to authorise the substitution of the Tariff for Transport on the Public Service hereto subjoined, for those now existing in the several Divisions of the Colony.

This Tariff will take effect in regard to all future Services, as well as to all Services which, having been performed since the commencement of the present year, have not yet been paid for.

(1) Vide Ordinance No. 8, 1813.



And for obviating as much as possible the delays which have hitherto been experienced in the settlement of Accounts for such Services, His Excellency has been further pleased to authorise the several Civil Commissioners to make immediate payment of all such Accounts when presented to them; they, however, being responsible that the services charged for have been duly performed, and that the rates charged are conformable with the Tariff.

Nothing herein contained can affect any existing or future Contract for such Services.

Colonial Office, Cape of Good Hope, 27th March 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

Govt. Advt.  
Mar. 27, 1839.

*Tariff of Hire for Horses, Wagons, &c., furnished for the Service of the Government of the Cape of Good Hope.*

	Cape and Stellen- bosch Division.		In the other Divi- sions of the Colony.	
	Service	Detention	Service	Detention
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
<i>Horse Wagons.</i>				
1. Wagon, complete, with team of not fewer than 8 horses, with harness, driver, and leader, <i>per hour</i> .....	0 6 0	0 3 0	0 5 0	0 2 6
2. Team only, as above, with harness, driver, and leader, <i>per hour</i> .....	0 5 0	0 2 6	0 4 0	0 2 0
3. Wagon only, <i>per hour</i> .....	0 1 0	0 0 6	0 1 0	0 0 6
<i>Horse Carts.</i>				
4. Cart, complete, with team of not fewer than 4 horses, with harness, leader, and driver, <i>per hour</i> .....	0 3 9	0 2 0	0 3 0	0 1 8
5. Team only, as above, with harness, driver, and leader, <i>per hour</i> .....	0 3 0	0 1 8	0 2 3	0 1 4
6. Cart only, <i>per hour</i> .....	0 0 9	0 0 4	0 0 9	0 0 4
<i>Ox Wagons.</i>				
7. Wagon, with tow, &c., complete, 12 or more oxen, driver and leader, <i>per hour</i> .....	0 4 0	0 2 0	0 3 0	0 1 6
8. Span only, as above, complete with driver and leader, <i>per hour</i> .....	0 3 3	0 1 8	0 2 3	0 1 2
9. Wagon only, <i>per hour</i> .....	0 0 9	0 0 4	0 0 9	0 0 4
<i>Ox Carts.</i>				
10. Cart, &c., complete, 8 to 12 oxen, driver and leader, <i>per hour</i> .....	0 3 0	0 1 6	0 2 4	0 2 0
11. Span only, with driver and leader, <i>per hour</i> .....	0 2 6	0 1 2	0 2 0	0 1 0
12. Cart only, <i>per hour</i> .....	0 0 6	0 0 4	0 0 4	0 0 4
<i>Guides, Expresses, &amp;c.</i>				
13. Each Horse, with saddle and bridle, <i>per hour</i> .....	0 1 0	0 0 6	0 1 0	0 0 6
14. Each rider, or person on foot, <i>per hour</i> .....	0 0 4	0 0 4	0 0 4	0 0 4
15. Field-Cornets, mounted, <i>per hour</i> ..	0 1 8	0 0 10	0 1 8	0 0 10
16. Burghers, do., <i>per hour</i> .....	0 1 4	0 0 6	0 0 4	0 0 6

Govt. Advt.  
Mar. 27, 1839

17. No charge for more than eight hours will be allowed for any service performed in one day, unless under very peculiar circumstances, of which the Civil Commissioner shall be the Judge.
18. For returning Home from service, without fresh hiring, or without Load, one half the service-rates will be allowed.
19. For coming to an appointed place by requisition; for every hour beyond half an hour's distance from home, an allowance will be made of half the service-rates, under the condition mentioned in No. 18.
20. Persons not mentioned in Art. 14, 15, or 16, who are entitled to charge for their own Horses, &c., when used on public duty, will be allowed only  $\frac{3}{4}$ ths of the above rates; and nothing for detention.
21. No service rendered shall be reckoned at less than one hour.
22. When the service to be performed is of such a nature as to require hiring or employment for two or more days, then  $\frac{1}{4}$ th shall be deducted from the service rates for the second and all subsequent days. In such cases, however, the Civil Commissioner will endeavour to get such service done by contract or private agreement.

Colonial Office, Cape of Good Hope, 27th March 1839.

By Command of His Excellency the Governor,

(Signed)

John Bell,  
Secretary to Government.

### Government Advertisement.

Govt. Advt.  
April 4, 1839

Taxes on  
Horses.

IN consequence of the heavy losses sustained by reason of the prevailing Horse Distemper, His Excellency the Governor hereby authorises the several Collectors of Revenue, on the approaching Collection of Taxes due for the year 1838, to demand and receive Tax upon such Horses only as the person chargeable with the same shall be possessed of at the time of collection.

As, however, the sole object of this authority is to relieve persons from payment of Tax upon those animals only that have died of the distemper, it is to be understood distinctly that the remission does not extend to the Tax on Horses that have been sold or otherwise disposed of during or since 1838.

Colonial Office, Cape of Good Hope, 4th April 1839.

By His Excellency's Command,

(Signed)

John Bell,  
Secretary to Government.

*At the Court, at Windsor, the 7th Day of September, 1838, present, the QUEEN's most Excellent Majesty. (1)*

The Lord Chancellor.  
Earl of Albemarle.  
Viscount Falkland.

The Viscount Palmerston.  
Viscount Melbourne.  
Lord Glenelg.

Ord. in Coun.  
Sept. 7, 1838.

WHEREAS since the abolition of Slavery throughout the British Colonies, Plantations, and Possessions abroad, the Marriage

(1) See, *infra*, Orders in Council of 20th Feb. 1839, published 20th Sept. 1839, and 3d April 1840, published 31st July 1840.

Marriages  
in British  
Colonies.



Laws of the said Colonies, Plantations, and Possessions, have been found inappropriate to the altered condition thereof, and inadequate to the increased desire for lawful matrimony therein : And whereas it is expedient and necessary to amend the said Marriage Laws, and to adapt the same to the altered state and condition of Society in the said Colonies, Plantations, and Possessions ;

*Ministers may publish banns according to the usage of their persuasion, for three Sundays before solemnization of marriage, in their own churches, in the parish in which both or one of the parties reside.*

2. It is therefore, hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Privy Council, that from and after the taking effect of this order, it shall be lawful for any minister of the christian religion, ordained or otherwise, set apart to the ministry of the christian religion, according to the usage of the persuasion to which he may belong, to publish within the colonies of British Guiana, Trinidad, St. Lucia, the Cape of Good Hope, and Mauritius, or any of them, banns of marriage between persons desirous of being joined together in matrimony, and such publication shall be made in an audible manner some time during public divine service on a Sunday, in the face of the congregation before whom such minister shall officiate in the parish in which both or one of the parties to be married shall dwell, and shall contain the christian and other name and surname and place of abode of each of the said parties, and shall be so published by some such minister for three Sundays preceding the solemnization of the marriage,—during the morning service, if there be service in the morning, or if there shall be no morning service, then during the evening service. <sup>(1)</sup>

*How banns to be published when parties live in different parishes, or are of different persuasions.*

3. And if the parties to be married shall dwell in different parishes, the banns shall be published in like manner in both such parishes ; and if the said parties shall be of different persuasions, the banns shall be published in like manner before each of the congregations to which the said parties may respectively belong, whether both the said congregations shall assemble in the same parish or not.

<sup>(1)</sup> It will be seen that this Order does not abolish the Matrimonial Courts ; and parties wishing to marry by Special Licence without the Publication of Banns (see § 11) must still appear before that Court. The beneficial provision contained in the 22d section of the Ordinance No. 105, supra vol. 2, p. 289, regarding the remarriage of surviving spouses has been superseded by this Order in Council, in all cases where the party does not appear before the Matrimonial Court. The Colonial Legislature may (see § 29) yet make provision in this respect.

Ord. in Coun.  
Sept. 7, 1838.

*How banns to be published in extra-parochial place.*

4. And where one or both of the parties shall dwell in any extra-parochial place, then if there be a congregation of the persuasion to which any such party shall belong assembling for public divine worship as aforesaid in such extra-parochial place, the banns of the party or parties dwelling in such extra-parochial place shall be published in manner aforesaid in such extra-parochial place.

*How banns to be published in extra parochial place where no congregation to which either party belongs.*

5. And if there shall be no such congregation in such extra-parochial place, then the banns of such of the parties to be married as shall dwell in such extra-parochial place shall be published in manner aforesaid in some parish next adjoining to such extra-parochial place.

*On the production of certificate of due publication of banns, any minister may solemnize matrimony according to the form of his persuasion.*

6. And in cases where the banns shall have been published in different places, the officiating minister at either of the said places shall, on the request of both or either of the parties whose banns shall have been published as aforesaid, give to the party requiring the same a certificate of the banns having been duly published in the place of which he is an officiating minister, and on the production of such certificate to the officiating minister of the other place where the banns were published, or of such certificates to any other such minister as aforesaid in the parish or extra-parochial place to which one of the parties shall belong, it shall be lawful for such minister where the banns were published, on receiving such certificate from such other minister where the banns were published, or for such minister as aforesaid, to whom the certificates of such ministers of both places where the banns were published, [shall be produced,] on receipt of such certificate or certificates, (as the case may be) to solemnize matrimony between the said parties according to such form and ceremony as shall be in use or be adopted by the persuasion to which the minister solemnizing such marriage shall belong.

*When such form is not that of the Church of England, declaration to be made,—and witnesses to be invoked.*

7. Provided that whenever the form and ceremony used shall be other than that of the United Church of England and Ireland, each of the parties shall in some part of the ceremony make the following declaration:

“I do solemnly declare that I know not of any lawful impediment why I, A.B. may not be joined in matrimony to C. D. here present.”



And each of the parties shall say to the other

"I call upon these persons here present to witness that I, A.B. do take C.D. to be my lawful wedded wife (or husband.)"

*Two days before publication of banns minister to be furnished with names and descriptions of parties, &c.*

8. And it is hereby further ordered, that no minister shall be obliged to publish banns between any persons whomsoever, unless the persons to be married shall two days at least before the time required for the first publication of such banns respectively, deliver or cause to be delivered to such minister a notice of their true christian and other names and surnames, and a description of their place or respective places of abode in such parish or extra parochial place as aforesaid, and of the time during which they have dwelt in such place or places.

*Marriage cannot be celebrated after the lapse of three months from the last publication of banns.*

9. And that it shall not be lawful for any minister to solemnize any marriage after three calendar months from the last publication of banns of such marriage; and in all cases where three calendar months shall have elapsed without the marriage having been solemnized, the publication of such banns shall be void; and before the said parties can be married by banns, it shall be necessary to republish the banns anew in manner and form aforesaid, as if no banns had ever been published between them.

*Minister who solemnizes marriage of minors not punishable, unless parents or guardians shall have forbidden the marriage, in which case the publication of banns shall be void.—Exception as to widow or widower.*

10. And be it further enacted, that no such minister as aforesaid who shall solemnize any marriage after due publication of banns as aforesaid, between persons, both or one of whom (not being a widow or widower) shall at the time of such marriage be under legal age, shall be answerable or responsible or liable to any pain, penalty, or proceeding for having solemnized such marriage without the consent of the parents or guardians or other person (if any) whose consent is required by law, unless such parents or guardians or other person, or one of them, shall forbid the marriage, and give notice thereof to such minister before he has solemnized the same; and in case such marriage shall be forbidden as aforesaid and such notice shall be given as aforesaid, the publication of the banns for such marriage shall be absolutely void.

*Licence shall authorize solemnization in any place and by any minister who could solemnize if banns had been published.*

11. And it is hereby further ordered, that where by any law in force, or which may hereafter be in force, in any of the colonies

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to which this order applies, by which licences for marriage without the publication of banns, may be granted or issued in any such colony by the governor thereof, or any other civil authority therein, it shall be lawful for the parties intending marriage, or either of them, to require that such licence shall authorize the solemnization of the marriage in respect of which such licence is applied for, in any place where and by any minister by whom such marriage could have been solemnized by virtue of this act if banns thereof had been published as aforesaid.

*Governor may appoint marriage officers for districts within which they may celebrate marriages.*

12. And whereas it may happen that in some of the colonies to which this Order applies, or in some parts thereof respectively, there may not be any such minister as aforesaid, or not a sufficient number of such ministers to afford convenient facilities for marriage, and it is expedient to provide for such cases :

It is therefore further ordered, that in every such case and whenever the same shall happen in any of the said colonies, it shall be lawful for the governor of such colony to appoint by writing under his hand and official seal, one or more such fit and proper person or persons as he shall from time to time deem necessary or expedient to be called the marriage officer, to solemnize marriages within such part or parts of the colony in which such appointment shall be made, as the governor shall from time to time direct : and it shall be lawful for the governor at any time, and from time to time, to revoke and cancel any such appointment or appointments, and to alter, vary, enlarge or contract the district or districts in which any person so appointed shall have power or jurisdiction to celebrate marriage for any cause which to him shall seem meet ; and every such appointment shall specify the part or district within which the person thereby appointed shall have power and jurisdiction to celebrate marriage.

*And to direct the manner by which the intention of parties to marry before such officers shall be made public.*

13. And until some law shall be made, passed, allowed and promulgated for regulating marriages by persons so appointed, it shall be lawful for the governor, and he is hereby required to direct, declare, and promulgate the manner by which the intention of parties to marry before any such marriage officer shall be made public.

*As to marriages of minors before such officer.*

14. Provided always, that it shall not be lawful for any such marriage officer to solemnize marriage between persons one or both of whom shall be under lawful age, (unless in the case of a widow or widower,) after such marriage shall be forbidden,

and notice thereof given to him by any person having lawful authority to forbid the same.

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*Where marriage not according to form of Church of England, declaration to be made.*

15. Provided always, that in every marriage before any such marriage officer not celebrated according to the form of the United Church of England and Ireland, the parties shall in some part of the ceremony respectively make the declarations hereinbefore set forth, as in the case of marriage by any such minister as aforesaid.

*Ministers may publish banns and solemnize marriages within districts of such officers.*

16. Provided also, that every such minister as aforesaid may, nevertheless, publish banns and celebrate marriage under and by virtue of this order in any part or district within which any such marriage officer shall have power or jurisdiction to celebrate marriage, as fully as if no such marriage officer had ever been appointed.

*When consent of parents or guardians cannot be given, or is withheld, parties may petition Chief Justice, who shall summarily hear and decide whether the marriage may be solemnized or not.*

17. And whereas it may happen that the parents or parent, guardians or guardian, of one or both of the parties to be married, may be *non compos mentis*, or absent from the colony, or otherwise incapable in law or in fact of consenting, or may be induced unreasonably and improperly to withhold his, her, or their consent to a proper marriage, or may be dead.

It is therefore hereby ordered, that in case any such parent or guardian whose consent is necessary to a marriage, shall be *non compos mentis*, or absent from the colony, or otherwise incapable as aforesaid of consenting, or shall withhold his, her, or their consent to any marriage; or in case there shall be no one capable of consenting, it shall be lawful for any person desirous of marriage, to whose marriage such consent is necessary, but cannot be given, or is withheld, to apply by petition to the chief civil judge, or person officiating as such for the time being of the colony, who is hereby empowered to proceed upon such petition in a summary way: and in case the marriage proposed shall upon examination appear to him to be proper, the said chief civil judge, or person officiating as such, shall judicially declare by his order, in writing, that such marriage is proper and may be solemnized forthwith; and every marriage duly solemnized in pursuance or under the authority or direction of such order, shall be as good, valid, and effectual to all intents and purposes whatsoever, as if such consent as aforesaid had been duly given thereto.

*Evidence of certain matters not to be required or received in suits regarding the validity of marriages.*

18. And it is hereby further ordered, that after the solemn-



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zation of any marriage under or by virtue of this act, it shall not be necessary in support of such marriage, or in any action, suit, or proceeding, when the same may come into question, to give any proof of the actual dwelling of the parties married, or of either of them, before the marriage, or that the banns were published, or that the marriage was solemnized in the place and by a person where and by whom the same ought to have been published and solemnized respectively, nor shall any evidence be received to prove the contrary.

*Actions to compel marriage by reason of promise or seduction not to be entertained.*

19. And it is hereby further ordered, that in no case whatsoever shall any suit or proceeding be had in any court or before any jurisdiction whatsoever, to compel the celebration of any marriage by reason of any promise or marriage-contract entered into, or by reason of seduction or of any cause whatsoever, which shall arise after the taking effect of this order, any law or usage to the contrary notwithstanding.

*Actions for damages on these grounds not affected.*

20. Provided always, that nothing herein contained shall prevent any person aggrieved from suing for, or recovering damages in any court, or by any proceeding wherein and whereby damages may be lawfully recovered for breach of promise of marriage, or for seduction, or other cause as aforesaid.

*Marriages (except by licence) to be solemnized between 8 and 4 o'clock,—in the presence of witnesses,—and entry to be made thereof in the register, and whether by banns or licence, and the age and condition of parties, &c.,—such entry to be signed and attested,—Duplicate original register to be made,—and left with the minister or marriage officer, who shall transmit the same to the Colonial Secretary, to be filed by him, and all such registers or copies thereof, duly certified, shall be good evidence of the facts therein recorded.*

21. And in order to preserve evidence of marriages, and to make the proof thereof certain and easy, and for the direction of such ministers and marriage officers as aforesaid in the registration thereof, it is hereby further ordered, that from and after the passing and taking effect of this order, all marriages, (except marriages by special licence to marry at any time and place where such special licences can be lawfully granted,) shall be solemnized with open doors, between the hours of (eight) in the forenoon, and (four) in the afternoon, in the presence of two or more credible witnesses, beside the minister or marriage officer who shall solemnize the same; and that immediately after the solemnization of every marriage, an entry thereof shall be made in a marriage-register book, to be kept for that purpose, by some such minister or marriage officer as aforesaid, or in some safe custody, for the place in which marriages may

be solemnized, and in every such entry in every such register it shall be expressed that the marriage was had by banns or licence; and if both or either of the parties married by licence be under age, and not a widow or widower, that it was had with the consent of the parents or guardians, or other person or persons having lawful authority to withhold consent to the marriage, or after such order of the chief civil judge, or other person officiating as such as aforesaid, and shall be signed by the minister or marriage officer, as the case may be, with his proper addition, and by the parties married, and shall be attested by such two witnesses; and every such entry shall be in the form or to the effect of the following specimen:—

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*Original Register.*

1838. Marriages solemnized at George Town, in the Parish  
of in the County of 1838.

No.	When married.	Names and Surnames.	Ages.	Condition.	Rank or Profession	Residence at the time of marriage.	After Banns or Licence.	Consent, by whom given, or Judge's Order.
1	1st Aug. 1838.	John Williams. Lucy Chambers	Full Age Minor	Bachelor. Spinster.	Car-penter		After Banns	Henry Chambers, Father.

Married, in the Wesleyan Chapel, at George Town aforesaid, after Banns by me, A.B. Wesleyan Minister.

This Marriage was solemnized between

us, { John Williams, } In the presence of us, { C. D.  
{ Lucy Chambers, } { E. F.

and of every such entry, at the same time, before the parties depart, shall then and there be made in a separate piece of paper, parchment, or vellum, a duplicate original register, in which the same matter shall be entered and signed, and attested by the same parties in manner or to the effect of the following specimen :

*Duplicate Original Register.*

1838. Marriages solemnized at George Town, in the Parish  
of in the County of 1838.

No.	When married.	Names and Surnames.	Ages.	Condition.	Rank or Profession	Residence at the time of marriage.	After Banns or Licence.	Consent, by whom given, or Judge's Order.
1	1st Aug. 1838.	John Williams. Lucy Chambers	Full Age Minor	Bachelor. Spinster.	Car-penter		After Banns	Henry Chambers, Father.

Married, in the Wesleyan Chapel, at George Town aforesaid, after Banns by me, A.B. Wesleyan Minister.

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This Marriage was solemnized between  
us, { John Williams, } In the presence of us, { C. D.  
{ Lucy Chambers, } { E. F.  
Examined with the Original Register, by me, and found  
to be correct. A. B.

Which said duplicate original register shall be left in the hands of the minister or marriage officer by whom the marriage was solemnized; and every such duplicate original register shall, within one calendar month from the date thereof, be transmitted to the colonial secretary of the colony, if there be one, and all such duplicates shall be filed and safely preserved by him in his office; and every such original register, and also every copy thereof, certified under the hand of the minister or marriage officer, who for the time being, shall have the lawful custody of the original, to be a true copy, and every such duplicate original register, and also every copy thereof, certified under the hand of such colonial secretary to be a true copy, shall respectively be good evidence of the facts therein recorded, in pursuance of this order, in and before all courts and proceedings whatsoever, in which it shall be necessary to give evidence of the marriage to which the same shall relate.

*Persons may inspect original register book, and file of duplicate original register, and have certified copies thereof.*

22. And it is hereby further ordered, that it shall be lawful for all persons at all reasonable times in the day, (except Sundays,) to search the original register-book, and also the file of duplicate original registers, in the presence of the person for the time being having the care of the same respectively, or his deputy, and to have a true copy or true copies of any entries or entry therein, or filed as aforesaid, certified under the hand of the minister, marriage officer, or officer for the time being respectively, having the custody of the original or duplicate original register as aforesaid, (as the case may be,) which true copies or copy, such minister, marriage officer, or colonial secretary is hereby required to make, and certify under his hand to be a true copy, in the form of the duplicate original register, except that the same shall be headed "certified copy, (or copies) of original (or duplicate original) marriage register," (as the case may be,) and shall be dated on the day, month, and year, when the same shall be delivered.

*Fees payable for duties performed.*

23. And it is hereby further ordered, that in order to meet the expense, and as a remuneration for the trouble occasioned by the performance of any duty under this order, the following fees shall be demandable and payable before the performance of the duty to which the same respectively relate, that is to say:—

For solemnizing and registering a marriage, and transmitting the duplicate original to the colonial secretary, *four shillings.*



For every general search not directed to any particular entry, *four shillings*. Ord. in Coun.  
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For every search for a particular entry, *two shillings*.

For every search for two or more particular entries, and not exceeding four entries, *one shilling* each.

For every search for any number of particular entries exceeding four, *four shillings*.

For every such certified copy as aforesaid, *two shillings*.

*Clergymen of Church of England to receive their customary fees.*

24. Provided always, that nothing herein contained, shall prevent any clergyman of the established church of England and Ireland, from receiving for any duty performed by him under this Order, such fees or payments, as have heretofore been customarily paid to such clergyman according to the rules of the said church, for the performance of such duties respectively :

*And not required to solemnize marriage otherwise than is prescribed by the Rubrick.*

25. Provided always, that nothing in this order contained, shall authorize or require any clergyman of the established church aforesaid, to solemnize marriage in any other manner than is prescribed by the rubrick.

*Governor may authorize remuneration to marriage officers.*

26. Provided also, that it shall be lawful for the Governor to authorize such marriage officers as aforesaid, to receive such further or other remuneration as he shall from time to time think the nature of their duties shall reasonably require.

*Punishment for erasing or destroying registers,*

27. And it is hereby further ordered, that if any person shall unlawfully and maliciously erase, obliterate, or destroy, or cause or procure to be erased, obliterated or destroyed, any such original register, or duplicate original register as aforesaid, such person shall be deemed guilty of a misdemeanour, and, on being duly convicted thereof, shall be liable to be imprisoned in the common gaol in the jurisdiction in which he shall be tried and convicted thereof, for any term not less than three nor exceeding twelve calendar months.

*And for forging or altering the same.*

28. And if any person shall unlawfully and wilfully forge or alter, or falsely make, or cause or procure or permit to be forged, or altered, or falsely made, any such original register, or duplicate original register, or any certified copy thereof respectively, or shall knowingly and wilfully deliver, offer, alter, or put off any such forged, false or altered copy, he shall be liable for such his offence, on conviction thereof, to be imprisoned in such gaol as aforesaid, for any term not exceeding eighteen months, nor less than six months.

Ord in Conn.  
Sept. 7, 1838.

*Local Legislature may make Ordinances for the better adaptation of this Order to colonial circumstances.*

29. And it is hereby further ordered, that it shall and may be lawful for the respective local legislatures of the said colonies of British Guiana, Trinidad, St. Lucia, Cape of Good Hope, and Mauritius, by any ordinance to be by them for that purpose made, to provide for the better adaptation of this present order, to the local circumstances of such colonies respectively; provided that such ordinance be not in contradiction or repugnant to any of the provisions of this order, and that all such ordinances be made, confirmed or disallowed as the case may be in the manner and according to the rules provided by law in reference to any other ordinances of the said respective local legislatures.

30. And whereas since the abolition of slavery in the British colonies, plantations and possessions abroad, doubts have arisen and exist as to the validity of certain marriages contracted and solemnized previous to the abolition of slavery in the said colonies, plantations, and possessions, between slaves and between parties, one of whom was a slave, and also in some cases between free persons of color, and since the abolition of slavery, between apprentices and other persons of free condition, by ministers of the christian religion other than clergymen of the United Church of England and Ireland, and it is expedient and necessary that all such doubts should be removed, and such marriages and reputed marriages should be ascertained and confirmed, and that all persons who may have solemnized any such marriages or reputed marriages, or who have in any manner assisted thereat should be indemnified from and against all pains, penalties, forfeitures, and proceedings, to which such persons or any of them may be liable therefore.

*Marriages heretofore solemnized by ministers not of the Church of England, declared valid and effectual from the time of the solemnization thereof.*

31. It is therefore, further ordered, that all marriages which at any time before the taking effect of this order shall have been solemnized in any of the colonies to which this order applies, by or before any such ministers of the christian religion as aforesaid, shall be and the same are hereby declared to be and to have been from the time of the solemnization thereof respectively good, valid, and effectual to all intents and purposes whatsoever, any law or usage to the contrary thereof in any wise notwithstanding; and all pains, penalties, forfeitures, and proceedings of whatsoever kind or description which any such christian minister may have incurred or become liable to before the taking effect of this order, by reason of his having solemnized or assisted at any marriage whatsoever, or in any

wise in relation thereto, is and are hereby remitted, released, repealed, and made void.

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Sept. 7, 1838.

Marriage.

*Registers kept by such ministers, and certified copies thereof, to be received as evidence.*

32. And whereas in the colonies in which marriages have been celebrated as aforesaid, registers thereof have been duly made and kept by such ministers as aforesaid, who officiated thereat, it is therefore further ordered that all such registers and all copies thereof respectively certified under the hand of the person for the time being having the lawful care of the same to be true copies, shall be and are hereby declared to be good evidence of such marriages as aforesaid respectively, as fully as if such registers had been made and kept and such certified copies had been made respectively by persons appointed by law to make and keep the same, and shall be received in evidence in all courts and before all judges and magistrates.

*A fair copy of all registers to be made within six months,—examined, verified,—certified by a magistrate,—and sent to the colonial secretary.*

33. And it is hereby further ordered, that the better to preserve evidence of marriages so registered, and to facilitate the proof thereof, every person in whose custody any register lawfully is or shall be at the time, shall within six months after the promulgation of this order, to which the same extends, respectively make or cause to be made a fair and correct copy of every such register and of every entry therein contained, and it shall be lawful for any such christian minister as aforesaid, to examine, verify and correct, (if and where found incorrect) by the original, any such copy of a register kept by the persuasion to which he belongs, and to take the same before any magistrate, and make and sign the following declaration, which any magistrate to whom the same shall be tendered, is hereby authorized and required to receive and to certify, in manner following, that is to say :

I, A.B, (describe the persuasion to which he belongs,) do hereby solemnly, sincerely, and truly declare, that I have carefully examined this copy, beginning the                      day of (month and year,) and ending on the                      day of (month and year,) and containing                      pages and entries of marriage, with the original register, and I believe the same to be throughout a true and faithful copy of the original register, of which it purports to be a copy. (Signed) A.B.

The said A.B. appeared this                      day of                      before me C. D. one of Her Majesty's justices of the peace in and for                      and made and signed the above declaration in my presence.

(Signed)

C. D.



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Marriage.

Which declaration and magistrate's certificate thereof shall be entered and signed at the end of the copy to which it relates, and the copy shall be then securely sealed up, and forthwith sent to the colonial secretary as aforesaid, to be by him kept with the registers of marriages in his office where the same may be searched, and every copy of any entry therein certified under his hand to be a true copy, shall be of the same force and effect as any certified copy whatsoever made by him, is, or can be, and which certified copies, he is hereby required to make and may receive payment for as in other cases.

*Penalty on Minister making false declaration.*

34. And if any such minister as aforesaid shall wilfully make and sign any such declaration, knowing the same to be false, he shall be liable to the pains and penalties to which persons guilty of wilful and corrupt perjury are liable.

35. And whereas in consequence of imperfect instruction in the christian religion and from other causes, many marriages *de facto* have taken place between persons one or both of whom were in the condition of slavery, but which marriages *de facto* have never been sanctioned by any public ceremony or formally registered, and in many such cases the parties have had offspring of such lastmentioned marriages; and it is expedient that provision should be forthwith made, for enabling such persons to confer upon their children the benefit of children born in lawful wedlock :

*De facto marriages—if recognized and solemnized within one year from the coming into operation of this Order—*

36. It is therefore further ordered, that it shall be lawful for all persons having contracted marriage as last aforesaid, at any time within one year after the coming into operation of this Order, duly to solemnize the marriage ceremony before any clergyman of the established church, or in any other manner authorized by this Order, and every person so recognizing a previous marriage *de facto*, shall at the same time make and sign the following declaration, which shall also be attested by the witnesses present and signed by the minister or marriage officer before whom the ceremony is performed.

We, A.B and C.D, do hereby severally, solemnly, sincerely, and truly declare, that on the       day of       in the year       or thereabout, at       we the said A.B. and C.D., intermarried with each other, and that we have had issue of the said marriage       children and no more, namely :—(here state the names and ages of the children, and if any be dead, state the fact.)

X. Y.

(Signed)

A. B.  
C. D.

*Relate back to the time of the marriage de facto,— and do not require publication of banns or licence.*

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Marriage.

37. And such marriage ceremony shall have relation back to the time of the marriage *de facto*, and all such children shall be deemed and taken to have been born in holy wedlock, and shall possess and enjoy all the rights, privileges and advantages of persons born in lawful wedlock; and to preserve evidence thereof, a duplicate original declaration shall then and there before the parties depart, be made, signed and attested in the same manner, and the original declaration shall be appended to and kept with the original register, and the duplicate original declaration shall be appended to, sent and kept with the duplicate original register, and shall for all purposes of evidence be deemed part thereof respectively: provided always, and it is hereby declared, that such lastmentioned ceremony and declaration may be performed and made without the previous publication of banns or a licence.

*This Order to be translated into the language commonly used, and things done by means of translation to be valid.*

38. And it is hereby further ordered, that where in any colony to which this Order applies, any other language than English shall be commonly used, the Governor shall cause a true and faithful translation of this Order, and particularly of the several forms and declarations herein contained, to be made, expressing the true intent and meaning thereof; and such translation when promulgated by the governor, may be lawfully used by all persons speaking such language: and every thing done under this Order by means of such translation shall be as valid and effectual to all intents and purposes whatsoever as if the same had been done in the original language of this Order, any law or custom to the contrary notwithstanding.

#### *Explanation of terms.*

39. And it is hereby further ordered, that the word "Governor" in this Order, shall be taken to mean the governor or other officer lawfully administering the government of such colony; and the word "parish," in colonies divided into parishes shall be taken in its ordinary sense, and in colonies not divided into parishes shall be taken to mean such other districts or divisions as for civil purposes are equivalent to parishes; and the term "extra-parochial place" shall be taken to mean any place not included in any such parish, district, or division; and if in any case there be no such district or division, or if it be uncertain to what kind of district or division the word "parish" is hereby intended to apply, the same shall be determined and officially declared by the Governor.

#### *When this Order to take effect.*

40. And it is further ordered, that this Order shall take effect and come into operation in the colony of Mauritius on the first

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Sept. 7, 1838.

Marriage.

day of February, one thousand eight hundred and thirty-nine; in the colony of the Cape of Good Hope on the said first day of February, one thousand eight hundred and thirty-nine, and in all other colonies to which it applies or extends on the first day of December one thousand eight hundred and thirty-eight.

*What included in the Colony.*

41. And it is further ordered and declared, that within the meaning and for the purposes of this Order, all islands and territories dependent upon any of the colonies to which this order applies or extends, and constituting parts of the same colonial government, shall respectively be taken to be parts of such respective colonies.

42. And the Right Honorable Lord Glenelg, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. Greville.

*Government Advertisement.*

Govt. Advt.  
April 23, 1839

Dutch  
Church.  
Preferment of  
Candidates.

For the information of those concerned, His Excellency the Governor is pleased to give publicity to the views of Her Majesty's Government, in regard to future appointments to the Ministry of the Dutch Reformed Church in this Colony.

While Her Majesty's Government are unable to give a positive pledge that native candidates will in all instances be preferred to others, they are fully prepared to admit and to act upon the general principle, that, in preferments to the Dutch Reformed Churches, the most favorable consideration should be given to natives of the colony, properly qualified for the office; but in weighing the respective qualifications of candidates, their ability to perform divine service in the English as well as the Dutch language will be borne in mind.

The Secretary of State has observed that those students in theology whose names are recorded as having studied in Europe, appear to have done so exclusively at the Dutch universities, and not in Great Britain; and he considers it an object of importance that young men destined for stations of so much influence in the colonial society, should, if possible, receive at least a portion of their education in that country,—for which purpose, the Scottish universities afford many advantages.

It is therefore to be understood, that, between candidates whose qualifications are in other respects equal, the Government would be disposed to give a preference to those whose theological studies have not been exclusively pursued in a foreign country.

Colonial Office, Cape of Good Hope, 23d April 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.



*Government Advertisement.*Govt. Advt.  
May 2, 1839.Licences to  
Drinking  
Houses.

It having been represented and made matter of complaint, that, notwithstanding the Government Advertisement of the 12th of December last, an unnecessary number of Drinking Houses have been licensed, and that persons are even now engaged in the erection of buildings avowedly for the purpose of their being hereafter converted into canteens: His Excellency the Governor deems it necessary, thus early, and with reference to the issue of licences for next year, to announce his determination to abate or prevent, by every means in his power, the public nuisance occasioned by a superabundance of those fruitful sources of debauchery and crime, particularly in Cape Town, Simon's Town, Wynberg, and the adjoining Field-cornetcies; and he requests that the respective magistrates will, by a proper and firm exercise of the power and discretion vested in them by law, render that assistance which, in the attainment of so desirable an object, the Government and the discerning public have a common right to expect at their hands.

In order, however, that persons engaged, or about to engage, in the erection, fitting up, or stocking of houses for canteens, of whatever description, may be fully forewarned of the disappointment of their speculations, and that the magistrates may in such cases be relieved from any embarrassment, His Excellency hereby forbids the issue of certificates for any such houses; and, further, for any houses whatsoever for the ensuing half-year.

And for acting *bona fide* on the letter and spirit of this instruction, the magistrates will be held harmless. <sup>(1)</sup>

Colonial Office, Cape of Good Hope, 2d May 1839.

By Command of His Excellency the Governor,

(Signed)

John Bell,

Secretary to Government.

*Government Advertisement.*Govt. Advt.  
April 30, 1839Treatment  
of Measles.

His Excellency the Governor has been pleased to direct the following hints for the treatment of Measles, compiled by the president of the Colonial Medical Committee, to be published for the guidance of persons in the country where there may be no medical practitioner.

Colonial Office, Cape of Good Hope, 30th April 1839.

By His Excellency's Command,

(Signed)

John Bell,

Secretary to Government.

(1) Vide Proclamations 12th December 1838, and 7th January 1839, p. 6 & 9.

Govt. Advt.  
April 30, 1839

*Hints on the Treatment of Measles where Medical Aid cannot be obtained.*

Treatment  
of Measles.

*Symptoms:*—The patient for the first day generally complains of alternate heats and chills, and the other feelings usually preceding an attack of fever; on the second day, though sometimes not till the third, the fever is completely formed. Much thirst is now complained of, often accompanied with nausea, and sometimes with vomiting; the tongue is generally white and moist; there are pains of the head, back, and loins. The face is flushed, the pulse frequent and hard, and the breathing hurried. The patient is early attacked with a dry cough and hoarseness; the eyes are red, swelled, itchy, very sensible to light, and watery; the nose is inflamed and often discharges a copious thin secretion. There is generally some remission of the symptoms in the morning, but they return in the evening with increased severity. In the more alarming cases, there is spasm of the limbs, sometimes delirium, but more frequently a lethargic stupor.

The eruption generally shows itself towards the end of the third or the beginning of the fourth day; sometimes not till the fifth. It comes out on the forehead in small points, which are generally distinct at first, but here and there, increasing in number and size, are soon formed into small clusters, so that the face seems marked with red stars of various size and figure. The parts occupied by the points are rough to the touch. From the face the eruption gradually spreads to the neck, breast, trunk, and limbs, generally appearing on the limbs the day after it shows itself on the face. The stains on the face continue red for two days, on the third they assume a brownish colour, or in the course of the fifth, or at most the sixth, that is—about the eighth or ninth day of the disease, the redness on the face nearly disappears, although traces of it often remain for four or five days longer. The outer thin skin is now broken and raised in the places which the eruptions occupied, so that the face appears covered with a light whitish powder.

When the redness has declined on the face, it is at its height in the limbs, where, about a day or two later, it runs the same course.

There is generally a considerable tendency to inflammation throughout the whole course of the Measles, and those parts are most subject to it which are most apt to be inflamed in common cold,—the eyes, nose, throat and lungs;—the inflammation of the eyes, nose, and throat, is usually of little consequence; it seldom becomes very troublesome, and declines with the other symptoms. The inflammation of the lungs may come on at any period, but is most frequent after the eruption is gone off. Where neither the habit or mode of treatment are bad, the disease itself seldom proves fatal; but its consequences are often troublesome.

*Treatment*:—In almost every case the object of treatment is to unload the stomach and bowels by an emetic, and followed up by a mild purgative; and secondly, to promote a gentle breathing perspiration, and a free expectoration by medicines which have a febrifuge effect and determine to the skin, diluting drinks, and a spare low diet. Therefore the treatment should begin in either age with an emetic, consisting of 30 grains of ipecacuanha, mixed up with four table spoonsful of warm water and two of syrup, one table spoonful to be given every quarter of an hour until free vomiting is produced. The next day from a dessert spoonful to two table spoonsful of castor oil according to age, should be given, unless the emetic has also acted freely on the bowels, in which case it may be postponed.

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After thus having cleared out both stomach and bowels, the second object is to promote a gentle breathing perspiration; and a free expectoration by medicines which have a febrifuge effect and determine to the skin should be attended to, and for that purpose recommend the following, viz:—Take infusion of elder flower, 8 ounces, liq. ammonia acetata, (which is Minderer's, spirits) 2 ounces; ipecacuanha wine, 2 drachms; spanish liquorice in powder 1 drachm. mixed; one table spoonful to be given every 2 hours to children, and two to adults.

Diluting drinks, such as barley water, gruel, or milk and water should be freely used, and herein consists the first part of the treatment.

The succeeding symptoms should be treated as they occur; for instance, the sore and inflamed eyes must be frequently washed with tepid water, or with an infusion of camomile flowers. The sore throat is best relieved by frequent gargling with water as hot as it can be borne, and by inhaling hot steam, which is best performed by placing a wash-hand basin filled with hot water on the lap of the patient, and throwing a shawl over the head and basin, and inhaling the steam freely; an operation which may be repeated every six hours. For the cough, which is sometimes very distressing, principally during the night, the following pills will be found of great service;—take extract of hemlock, extract of henbane, of each half a drachm, ipecacuanha in powder 10 grains, mixed and divided into 15 pills, one to be taken three or four times a day. Half a pill to be given to children.

When the symptoms are severe, and there is a good deal of pain in the chest, and difficulty of breathing, bloodletting must be resorted to, as in addition to the object to be fulfilled in mild cases, we have here to prevent or remove inflammation in the chest. It is seldom, however, that these symptoms come on till the eruption is going off, and the abstraction of blood should never be resorted to early in the disease unless it is clearly necessary. Under the circumstances first stated, of great diffi-



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culty of breathing, and an unusually hard pulse, from eight to sixteen ounces of blood should be taken from the arm, and if these symptoms continue little or not relieved by the first evacuation, the operation should be repeated to the same extent. The application of leeches to the chest is often advisable, in addition to the general bleeding. But when leeches are not procurable the patient must be cupped (diluting drinks and a low diet being resorted to, as just advised.) After the loss of blood, a blister should be applied over the chest. In such acute cases, as we now advert to, in which inflammation of the lungs is to be suspected, I am partial to the use of calomel combined with James' powder, joined with the above means. From half a grain to a grain of calomel may be made into pill, with three grains of James' powder, and given every three or four hours till the symptoms are relieved. It has often a powerful effect in arresting the progress of inflammation in vital organs.

With regard to exercise, if the patient find himself inclined from the commencement to remain in bed, he should not be prevented; at the same time, there is no occasion to confine him to it against his will. In all cases towards the period of the eruption, he feels fatigued, and averse to motion. Whether he be in bed or not, extremes of heat and cold are equally to be avoided. In all cases, the room in which the patient is confined should be large and airy, and free from currents of cold.

On account of the cough always present in the disease, and there being a great tendency to inflammation of the lungs, cold must in all cases be carefully guarded against. If the cough be troublesome, it will be useful to breathe the steam of warm water as before mentioned.

If the oppression of the chest, pain and hard pulse should return, as they are apt to do on the disappearance of the eruption, blood-letting or cupping must again be had recourse to, however freely that may have been employed antecedently.

Opium should never be given to relieve the cough, as it generally fails in effecting this object, and always increases the fever and restlessness. One of the best medicines for this purpose are the pills already mentioned.

In case the measles should suddenly disappear, endeavours should be immediately resorted to in order to restore the eruption to the skin. The patient must be placed in a warm bath, blisters be applied to the inside of the thighs or legs and to the chest, and a little warm wine, diluted with water, be given frequently with ten drops of antimonial wine every hour, which may be taken either in the wine or in warm tea.

Now and then the progress of the Measles is irregular, and the symptoms malignant, the fever terminating early in typhus. In such cases the best medicines are bark, wine and opium, the two last being used cautiously and in small doses. If the op-

pression of the chest be considerable, blisters should be applied. The tartar emetic ointment, rubbed on the chest, may be sometimes still more beneficial; or a mustard poultice, quickened with oil of turpentine and applied to the chest, may prove of the greatest service when there are symptoms denoting inflammation within the chest, and the debility at the same time too great to admit of bleeding.

Some of the most troublesome consequence of Measles, is a hoarseness, cough, shortness of the breath, and inflammation of the eyes. The hoarseness is often best removed by the bark when there is no fever nor difficulty of breathing. For the cough the pills above described.

To moderate and remove the inflamed state of the eyes, exposure to light should be avoided, and the eyes be frequently bathed as before-mentioned; and the following eye water be used tepid, viz: extract of lead 10 drops, rose water 4 oz. mixed. The eyes to be bathed with it 3 or 4 times a day.

After the inflammation has been subdued by means of quietude, low diet, and exclusion from the light, and the complaint assumes an indolent character, one of the most efficacious remedies is the diluted ointment of nitrated quicksilver.

Another very unpleasant symptom occurs in adults, viz: a constant reaching and bilious vomiting, which sometimes lasts for 48 hours, and which fatigues and distresses the patient much. It generally begins on the second or third day of the eruption. As no medicines will stay upon the stomach, it is found that free drinking of tepid water, but particularly milk warm from the cow, and a strong mustard poultice upon the pit of the stomach will give sooner relief than any thing else. The character of the present epidemic was in the beginning very mild, but of late it has assumed a more serious nature, in consequence of diarrhœa and dysentery supervening, which has already carried off more individuals than all the other symptoms together. But it must be observed that exposure to cold, in getting out of bed too soon, or by going out too early, and also by eating or drinking improper things, have as much to do with it as the malignity of the disease. Therefore all medicines, as well as all nutriments, which are cooling, and have a tendency to act upon the bowels should be carefully avoided from the beginning, and hence tartar emetic, saline, acid and drastic purgatives should never be used. ipecacuanha, calomel, castor and sweet oil being far milder and more preferable evacuants.

The moment diarrhœa or dysentery begins, it should be arrested immediately, for if it is allowed to go on it will be found very difficult to do so afterwards.

In simple diarrhœa, the chalk mixture with aromatic confection, or Dover's powder, with compound chalk powder, and rice water as a beverage, will, in most cases, be found sufficient; but if dysentery supervenes, great attention should be

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paid, for in the present epidemic, it is soon apt to run imperceptibly into a sub-acute inflammation, and if not arrested timely, will end in ulceration, or gangrene, particularly in children: therefore, the moment the evacuations become frequent, bloody, and slimy, with straining, calomel and Dover's powder should be given every four hours, and followed up every morning with sweet oil. Sometimes it will be necessary to push the calomel so far as to produce slight salivation before the dysenteric symptoms and inflammation will be subdued.

The patient should be put into a warm bath every evening, and the stomach rubbed with pure spirits of turpentine, three or four times a day. But when there is pain on pressure, or in moving in bed, or in making a deep inspiration, or in coughing, blisters, leeches and hot fomentations, over the abdomen should be repeatedly applied.

In adults, in addition to the above means, when there is a hard or sharp pulse, one or more free bleedings from the arm may be required before the inflammation will be overcome.

When there is much tenesmus, (which is straining and pain at the fundament,) small tepid injections, consisting of from 2 to 4 ounces of rice water, starch or linseed tea, with from 10 to 15, or 30 drops of laudanum in each, and repeated three or four times a day, will also give great relief. A few leeches applied to the arms may also have a great tendency in reducing inflammation of the rectum, both in children and in adults.

When the inflammatory symptoms are more or less subdued, and the dysentery assumes a chronic character, then a stringent and tonic medicine must be given, such as columbia simaruba, with tincture of cinamon, laudanum and nitric acid. Rice water, thin arrow root or a decoction of salep should be the only beverage, and rice, sago, arrow root and oat meal boiled in milk the principal food—all the drink should be tepid.

I would strongly recommend every patient under the most favorable circumstances not to quit his bed under 10 days, nor his room under 14, nor the house under one month.

To wear flannel next to the skin, or a flannel bandage round the stomach.

To abstain for a considerable time after convalescence from vegetables and fruit, and from all cooling and fermented liquors.

Prisons and crowded bed rooms should be properly ventilated, and a free use be made of the chloride of lime.

The alvine evacuation, more particularly those of dysenteric patients should be removed immediately, for if the disease partakes of a typhoid character, it becomes highly infectious.

### *Prescriptions.*

No. 1.—Take ipecacuanha in powder, 30 grains; warm water, 4 table-spoons; syrup or honey, 2 table-spoons;



mix one table-spoonful, to be given every quarter of an hour until free vomiting is produced.

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No. 2.—Castor oil, or sweet oil, is best given in warm milk.

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No. 3.—Take infusion of elder flower, 8 ounces; liq. ammonia acetata, which is Menderer's spirit, 2 ounces; ipecacuanha wine, 2 drachms; spanish liquorish, in powder, 1 drachm; mix one or two table-spoonsful, to be given every second hour. This is also an excellent remedy in assisting nature in throwing out the eruption.

#### *Pills for the cough.*

No. 4.—Take ipecacuanha in powder, 10 grains; extract of hemlock, extract of henbane, of each half a drachm; divide into 15 pills, one to be taken every 4, 5 or 6 hours; children half a one.

#### *Powders against diarrhœa.*

No. 5.—Take Dover's powder, from 3 to 5 grains; compound chalk powder, from 5 to 10 grains according to age; one powder to be given every four hours in rice water.

No. 6.—Chalk mixture, 6 ounces; aromatic confection, 1 drachm; mix for adults, one table-spoonful every two hours; for children, one dessert-spoon, and for infants, one tea-spoonful.

#### *Powder for dysentery.*

No. 7.—Take calomel, from 1 to 5 grains; Dover's powder, from 2 to 6 grains; chalk powder, from 5 to 10 grains; mix one powder to be given every four hours, and followed up the following day, with one or two table-spoonsful of sweet oil.

No. 8.—Sweet oil, from one table-spoonful to two, with 5, 10, or 15 drops of laudanum, may also be given when there is much straining.

#### *Against dysentery and a tonic.*

No. 9.—Take decoction of columbo, 8 ounces; tincture of cinnamom, 2 drachms; laudanum, from 40 to 60 drops; mix one table-spoonful to be given every three hours, and two table-spoonsful to adults.

No. 10.—Take infusion of simaruba, 8 ounces; tincture of opium, or laudanum, 1½ drachm; nitric acid, 25 drops; mix one, two, or three table-spoonsful, according to age, to be given four times a day.

#### *Eye Water.*

No. 11.—Take extract of lead, 10 drops; rose water, 4 ounces, mix; bathe the eyes frequently with it, after having made it tepid.

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## Government Memorandum.

Education.

### Education.

ON the arrival of His Excellency Major-General Sir George Napier to assume the government of this Colony, his attention was speedily drawn to the defective and inefficient state of the government schools which had been established in the several districts,—and His Excellency lost no time in representing to Her Majesty's Government the necessity of re-organizing the educational establishment of the Colony, and of placing the public schools in charge of men professionally qualified to undertake the important office of public instructors.

In maturing the Plan which was then transmitted to the Secretary of State for the Colonial Department, His Excellency received the invaluable assistance of that distinguished philosopher Sir John Herschel, of whose visit to, and interest in the moral and intellectual improvement of this Colony, the system of education now about to be introduced, will, it is hoped, be a lasting record.

His Excellency has also pleasure in acknowledging the important suggestions which were furnished him by other gentlemen resident in the Colony. And he feels assured that those who have thus co-operated with him in promoting this important measure, will be gratified to learn that their sound and enlightened views on public education have received the sanction of Her Majesty's Government.

In laying before the public a detail of the plan on which the government seminaries will be conducted in future, His Excellency thinks it proper to state, in the first place, what he conceives to be the legitimate objects of a system of public instruction.

The objects to be attained by the educational institutions of any country are, in the language of the distinguished individual already alluded to,—

1. To form in the individual, advantageous personal habits.
2. To store the mind with useful knowledge and practical maxims available for the demands of life.
3. To enlarge the powers and capacities of the mind, and to elevate his propensities, by familiarizing him with trains of connected and serious thought, and with high examples of moral and intellectual conduct.
4. To form good citizens and men, by instructing them in the relations of social and civil life :—and to fit them for a higher state of existence, by teaching them those which connect them with their Maker and Redeemer.

To these which constitute the chief scope of every sound system of public instruction, His Excellency has to add one of paramount importance in this Colony, viz.—to render its educational establishments *effective* in diffusing a correct knowledge

of the English language among all ranks of the people. And whilst his Excellency respects the attachment which is naturally felt by the colonists of Dutch extraction to their own language, associated as that feeling must be with the dearest relations of life, and has met their wishes in this respect by making the Dutch language a part of the elementary course of instruction in all schools where it is required, He feels confident from what he has learnt of the extent to which the study of the English language has been voluntarily prosecuted in the class-rooms of the South African College, that the whole body of the colonists are prepared to regard, with him, the cultivation of the English language as inseparably connected with the future prosperity of this colony.

To attain the important objects above enumerated, His Excellency is satisfied that at several stations in the interior of the colony provision must be made, even under existing circumstances, not only for elementary education, but also for instruction in those branches of knowledge which constitute a liberal education. It will therefore form a part of the plan, to establish at such stations, so soon as qualified teachers arrive, *first class* or *principal schools*, in which both a *primary* and *secondary* course of instruction will be instituted.

The subjects to be taught in the respective courses will be thus arranged:—

#### *Primary or elementary department.*

1. Reading, writing, and the principles of abstract and commercial arithmetic.

2. A sound grammatical knowledge of the English language.

This, as it regards Dutch pupils, can only be attained by making a well arranged course of oral and written translation from Dutch into English, and from English into Dutch, an essential part of elementary instruction.

A grammatical knowledge of the Dutch language will be communicated to all pupils who require to join the translation classes.

3. Descriptive geography,—the outlines of general history, —chronology.

4. The elements of linear drawing, and perspective.

This important branch of elementary education will be applied to the construction of outline maps,—the drawing of geometrical forms, architectural designs, &c. on slates and black boards, or on paper at the expense of the pupil.

5. The rudiments of natural history and physical science,—the principles of mechanics.

These departments of elementary knowledge will be embraced in a series of conversational lectures, founded on approved text-books, selected for that purpose.



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6. Religious instruction.—This will consist in the daily perusal of the Holy Scriptures, at an hour set apart for that purpose.

Every facility will be afforded the pupils of attending the catechetical instructions of their respective pastors.

Should any parent conscientiously object to his child engaging in the religious exercises of the school, leave of absence during the hour set apart for such exercises will be granted to the child, on due application.

*Secondary, or classical and scientific department.*

1. Languages,—Latm, Greek, French.

2. Science,—An elementary course of mathematics, embracing the higher department of arithmetic—elementary algebra,—plane and solid geometry, and the doctrine of the conic sections—plane and spherical trigonometry.

3. The application of the mathematical sciences to mensuration, surveying, navigation, and practical astronomy.

4. Physical and mathematical geography—the outlines of geology.

To each school there will be attached a library, formed of books calculated both to amuse and instruct. These libraries will also contain works of reference, which from their expense, might otherwise be placed beyond the reach both of the master and pupil,—and such models and other philosophical apparatus as may be necessary to illustrate the subjects referred to in article 5 of the elementary course.

In the *second* class school which will occupy the remaining stations, the elementary course, as above described, will be alone taught. But in selecting teachers, preference will be given to individuals possessing a knowledge of some of the higher branches. This, however, will have no weight when determining on the competency of the individual in the more important and indispensable qualifications of an elementary teacher.

In all the schools, the elementary course of instruction will be *free*, and at all times every government seminary will be accessible to every individual of the community. For the higher branches which will be taught in the principal schools, a moderate fee will be charged. But a certain number of free scholarships will be retained by Government for the purpose of advancing deserving youths of poor parents.

Besides the first and second class schools to be established in the country districts, a normal institution will be formed in Cape Town, for the purpose of training teachers for the elementary department.<sup>(1)</sup> In order that this seminary may be conducted on the most improved principles, the gentleman selected for its superintendence will have an opportunity afforded him of visiting institutions of a similar character in Germany, previous to his sailing for the Cape.

(1) *Vide infra.*

In order to maintain the efficiency of the system, and to secure its improvement as circumstances require, a general superintendent of public education has been appointed under the sanction of Her Majesty's Government, whose duty it will be to visit every school at least once a year, to examine the ordinary routine of daily instruction, the arrangement of subjects, classification of pupils, &c., and to institute a strict inquiry into the state and progress of the schools generally.

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He will also be required to call for monthly returns from every school, of the attendance, conduct, and progress of every pupil, and quarterly reports of the stated examinations in presence of the local school commissions, detailing the subjects taught in the various classes, during the quarter, the comparative merits of each pupil, and the report of the board on the result of the examination. From these data, the general superintendent will be enabled to form a correct estimate of the character and attainments of every pupil, and he will be authorised to grant certificates to such pupils accordingly, as shall have finished their course of duty with honor to themselves, and credit to the institution. These certificates His Excellency feels assured will always be considered favorably by Government when selecting officers for the public service.

It will also be the duty of the general superintendent to hold constant communication with the instructors of the several schools on the method of instruction,—the progress of education in various parts of the world,—the local difficulties with which the teacher may have to contend,—and generally on every topic that can contribute to advance the cause of education in the colony. He will likewise be called upon to supply the Government with all necessary information on the educational statistics of the colony, and to draw up periodical reports from the monthly and quarterly returns, as also from his annual visitations, of the state of each school, and the efficiency of the system.

Colonial Office, Cape of Good Hope, 23rd May 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

WHEREAS by a proclamation of His Excellency Major-General Sir David Baird, commanding in chief in this colony, bearing date the 23d day of January 1806,<sup>(1)</sup> it was ordered that certain coins of money, then current in the settlement, should have a fixed and determined value assigned to them, respectively, with reference to British sterling money; and whereas it is

Proclamation  
May 20, 1839

Proclamation  
Jan. 23, 1806  
revoked.

(<sup>1</sup>) Vol. 1 p. 9.

Proclamation  
May 29, 1839

Proclamation  
Jan. 23, 1806  
revoked.

expedient that no metallic coined money, save only the legal coin of the realm, shall be, or shall be made and declared to be, a legal tender in payment of money, without especial permission from Her Majesty in that behalf obtained : and that the said proclamation should be revoked and annulled :— Now, therefore, I do hereby revoke and annul the proclamation aforesaid, from and after the date hereof.

*God save the Queen !*

Given under my hand and the public seal of the settlement, at Cape Town, Cape of Good Hope, this 29th day of May 1839.

(Signed) George Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

*Government Advertisement.*

Govt. Advt.  
May 29, 1839

Prohibition  
of Lotteries.

His Excellency the Governor has been pleased to direct the publication of a translation from Governor Van de Graaff's prohibition of the 19th May 1789, which is hereto subjoined.

Colonial Office, Cape of Good Hope, 29th May 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

*Prohibition.*

HAVING observed that the drawing of lotteries in this place is carried to such a height, that unless the practice be not timely checked and opposed, the greatest irregularities cannot fail to arise, and the most baneful consequences will be entailed on the public in general. We have thought fit and determined hereby peremptorily to prohibit and forbid all persons whomsoever, from disposing of any property by way of lottery, under the penalty, in case of detection, of a fine of 25 rix-dollars, in behalf of the fiscal, over and above the forfeiture of the property proposed to be raffled for ; which penalty shall likewise be incurred by all persons who shall have taken one or more tickets in such lottery ; and in case of default of payment of the said fine, the parties convicted shall be severely flogged. And all tavern-keepers and publicans, or others, who shall have permitted lotteries to take place in their houses, shall forfeit a double fine, and such tavern-keepers or publicans shall ever be precluded from obtaining a renewal of their licence.

Thus done and decreed, in the castle of Good Hope, this 19th May 1789 ; and published and affixed on the 27th following.

(Signed) C. J. van de Graaff.

By order of His Excellency the Governor and Council,

(Signed) C. van Aerssen, P. Sec.



*Government Advertisement.*

Govt. Advt.

May 29. 1839.

Transfer  
Dues.

COMPLAINTS having been made that purchasers of loan-rent or quit-rent property, have frequently been put to much inconvenience and future trouble, besides the risk of incurring fines, by reason of the several receivers of transfer dues refusing to receive the same on account of non-payment of rent, or arrears thereof, by the sellers, up to the period of sale; His Excellency the Governor is pleased to authorise the said receivers to accept such transfer dues, when tendered in the manner prescribed by the government advertisement of the 6th September 1838:—But the registrar of deeds is hereby prohibited from making transfer of any such property, until satisfactory proof shall have been adduced before him, that all rent, and arrears of rent, if any, on such property, have been duly discharged. And for so doing, the said registrar is hereby held harmless.

The purchaser who is put to loss by not receiving transfer, has the right to compel the seller to give transfer by action.

Colonial Office, Cape of Good Hope, 29th May 1839.

By His Excellency's Command,

(Signed) John Bell,

Secretary to Government.

*Government Advertisement.*

It having been represented that passengers arriving in the ports of this colony, in coasting vessels, during the night, have been put to inconvenience by reason of their detention until the health officer shall have boarded:—Notice is hereby given that, in such cases when the said vessels *shall not have communicated on their passage with any other vessels not being colonial coasters*, the passengers by such first-mentioned vessels arriving during the night, shall be at liberty to land although the port captain or harbour master has not boarded the vessel.

Govt. Advt.  
July 4, 1839.Landing  
Passengers.

There is nothing, however, in this permission which shall be taken to interfere with or set aside any custom house regulation.

Colonial Office, Cape of Good Hope, 4th July 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

Ordinance  
No. 6, 1839.

No. 6, 1839.—Signed, Geo. Napier.

Recovery  
of fines.

*Ordinance for the more effectual recovery of fines and penalties before justices of the peace and resident magistrates, on conviction of offenders, in this colony; and for the application of the same in certain cases.*<sup>(1)</sup>

*Preamble.*—Fines and penalties not exceeding £40, imposed by any law or ordinance, to be recovered before resident magistrate, unless otherwise expressly provided by such law or ordinance,—and to be levied by distress and sale, or enforced by special commitment in execution, at the discretion of such resident magistrate.

WHEREAS in some of the laws and ordinances which are now in force in this colony, whereby fines and penalties are imposed on persons for certain offences therein mentioned, no adequate provision is made for the recovery of the said fines and penalties;—and whereas it is expedient that all fines and penalties, not exceeding forty pounds sterling, which have been, or shall be, imposed on offenders by any law or ordinance in this colony, for the recovery of which no provision has been, or shall be, expressly made in such law or ordinance, should be recovered before the resident magistrate of the district or place in which the respective offences shall be committed: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the passing and publication of this ordinance, all fines and penalties, not exceeding forty pounds sterling, which have been, or shall be, imposed on persons for offences by any law or ordinance which now is, or at any time hereafter shall be, in force in this colony, for the recovery of which no provision has been, or shall be, expressly made in such law or ordinance, shall be recovered before the resident magistrate of the district or place in which the respective offences shall be committed, and shall, in case of non-payment thereof, be levied by warrant of distress and sale of the goods and chattels of the offender or offenders, or enforced, at the discretion of such resident magistrate, by such special commitment in execution as is hereinafter prescribed for, and declared to be generally applicable to the recovery of fines and penalties inflicted by any of the laws of this colony.

*Justice of the peace or resident magistrate may commit offenders after warrant of distress and sale, and return of nulla bona;—or may, at his discretion, proceed at once to the commitment of the offender.*

2. And whereas, by several laws and ordinances which are now in force in this colony, certain fines and penalties are

<sup>(1)</sup> Sanctioned by the Queen, *vide* Proclamation 7th Sept. 1841.

inflicted on persons convicted of certain offences, which are directed to be recovered before a justice of the peace, or resident magistrate, within their respective jurisdictions, who is authorised to issue forth his warrant for levying such fines and penalties by distress and sale of the goods and chattels of the offender or offenders, but no further remedy is provided, in case no sufficient goods and chattels of such offender or offenders can be found whereon to levy such fines and penalties,—for remedy whereof, be it further enacted, that from and after the passing and publication of this ordinance, whenever it shall appear to any such justice of the peace, or resident magistrate, by whom any fine or penalty shall be adjudged to be paid, upon the return of any such warrant of distress, that no sufficient goods and chattels of the offender or offenders can be found, whereon to levy such fine or penalty, within the jurisdiction of such justice of the peace, or resident magistrate, it shall be lawful for such justice of the peace, or resident magistrate, to issue forth his warrant for committing such offender or offenders to the common gaol, for any term not exceeding three calendar months, unless such fine or penalty shall be sooner paid;—or, in case it shall appear to the satisfaction of such justice of the peace, or resident magistrate, either by the confession of the offender or offenders, or otherwise, that he, she, or they, hath not, or have not, sufficient goods or chattels, within the jurisdiction of such justice of the peace, or resident magistrate, whereon to levy such fine or penalty, such justice of the peace, or resident magistrate, may, at his discretion, without issuing any warrant of distress, proceed to the commitment of such offender or offenders, in such and the like manner as if a warrant of distress had been issued, and a return of *nulla bona* made thereon, as aforesaid.

*Offenders to be discharged on payment of fine or penalty.*

3. And be it further enacted, that, in case any offender or offenders committed to the common gaol, for nonpayment of any such fine or penalty, shall at any time during the period of his, her, or their imprisonment, pay, or cause to be paid to the keeper of such common gaol, the full amount of such fine or penalty, it shall be lawful for such keeper of such common gaol, and he is hereby required, forthwith to discharge such offender or offenders from his custody.

*Application of fines and penalties, in the absence of special provision to the contrary.*

4. And be it further enacted, that all fines and penalties, recovered under any of the laws or ordinances of this colony shall, unless it be otherwise expressly provided by such laws or ordinances respectively, be paid and applied as follows, that is



Ordinance  
No. 6, 1839.  
Recovery  
of fines.

to say, a part not exceeding one half or less than one-fourth thereof shall be paid to the informer, and the remainder into the colonial treasury.

*God save the Queen!*

Given at the Cape of Good Hope, this 14th Day of August, 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Council,

(Signed) Charles Bell,  
Acting Clerk of the Legislative Council.

No. 7, 1839.—Signed, Geo. Napier.

*Ordinance for reviving certain sections of the ordinance No. 48, entitled: "ordinance of His Honor the Lieutenant-Governor in council, for establishing an executive police in Cape Town and the district thereof, and for consolidating and amending the laws and regulations relating thereto,"—and continuing the same until the regulations of the municipal board for Cape Town and the vicinity thereof shall have been duly framed, adopted, approved, and carried into effect, according to the provisions of the ordinance No. 3, 1839, intituled "ordinance enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, for the creation of a municipal board for Cape Town and the Vicinity thereof."*

*Preamble,—certain sections of ordinance No. 48, (which were repealed by ordinance No. 3, 1839,) revived and provisionally continued in force.*

Ordinance  
No. 7, 1839.  
Reviving  
certain secs.  
of Ord. 48.

WHEREAS certain unforeseen impediments have interrupted the progress, and are likely to occasion considerable further delay in the completion of the regulations of the municipal board for Cape Town and the vicinity thereof, according to the provisions of ordinance No. 3, 1839, intituled "ordinance enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, for the creation of a municipal board for Cape Town and the vicinity thereof;" And whereas certain important enactments, which are hereinafter specified, were improvidently repealed by the said recited ordinance, as being likely to militate against the said projected municipal regulations, which were expected to come into operation at an early period after the passing of the said recited ordinance;—and it is, therefore, expedient that the said several

enactments should be revived, and provisionally continued: Be it, therefore, enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that, from and after the passing and publication of this Ordinance, the 8th, 9th, 10th, 11th, 12th, 13th, 17th, 18th, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32d, 33d, 34th, 35th, 36th, 37th, 38th, 39th, and 42d sections of the ordinance No. 48, intituled "ordinance of His Honor the Lieutenant-Governor in council, for establishing an executive police in Cape Town, and the district thereof, and for consolidating and amending the laws and regulations relating thereto," shall be, and the same are hereby revived; and that the same, and the several enactments therein contained, shall be and continue in full force and effect until the said projected regulations of the municipal board for Cape Town and the vicinity thereof shall have been duly framed, adopted, approved, and carried into effect.<sup>(1)</sup>

Ordinance  
No. 7, 1839.

Reviving  
certain secs.  
of Ord. 48.

*God save the Queen!*

Given at the Cape of Good Hope, this 11th day of September, 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,  
Acting Clerk of the Legislative Council

*Order in Council, February 20, 1839.*

WHEREAS on the 7th day of September 1838,<sup>(2)</sup> an Order was passed by Her Majesty, with the advice of Her privy council, for giving validity to certain marriages contracted within the colonies of British Guiana, Trinidad, Saint Lucia, the Cape of Good Hope, and Mauritius, and for regulating the celebration of marriages therein hereafter in certain cases: And whereas doubts have arisen whether according to the right construction of the said Order the legal effect thereof is not to take away the right theretofore vested in the clergy or ministers of religion within the said colonies to the fees heretofore payable to them, on the celebration of marriages therein. Now, therefore, for the removal of such doubts, it is hereby declared and ordered by the Queen's Most Excellent Majesty, with the advice of Her privy council, that nothing in the said recited Order contained, extends or shall be construed to extend, to deprive any clergyman or any minister of religion in any of the said

Ord. in Coun.  
Feb. 20, 1839.

Removal of  
Doubts as to  
fees in mar-  
riages.

(1) Repealed by the Municipal Ordinance *infra*.

(2) *Vide supra* p. 22.

Ord. in Conn.  
Feb. 20, 1839.

Removal of  
doubts as to  
fees in Mar-  
riages.

colonies hereafter celebrating any marriage therein, of any fee perquisite, or emolument, on such celebration, which would have been legally payable to him thereupon if the said recited Order had not been made, or to take away from any such clergyman or minister any right of action, or other remedy which could have been had by him for the recovery of any fee, perquisite, or emolument on any marriage hereafter to be celebrated by him if the said recited Order had not been made, anything in the said recited Order contained to the contrary notwithstanding.

And the most noble the Marquess of Normanby, one of Her Majesty's principal secretaries of state, is to give the necessary directions herein accordingly.

C. Greville.

### *Government Advertisement.*

#### *Juvenile Emigrants.*

Govt Advt.  
Sept. 13, 1839

Treatment of  
Juv. Emgts.

IN consequence of a representation made by the general committee of the Children's Friend Society in England to the secretary of state for the colonies, His Lordship has instructed the Governor of this colony to institute an inquiry into the condition of the children serving here, under indentures made by the commissioners under the ordinance No. 3, of 1836

The representation is as follows:—

“ 1. The Children's Friend Society was founded in the year 1830, for the purpose of reforming and providing for the neglected and destitute children with which the metropolis abounds.

“ 2. The manner in which it sought to effect this object, was, by subjecting the children entrusted to it to a particular course of training in its schools, and then procuring them situations which might remove them from their previous temptations

“ 3. The latter part of the plan was at first confined to England; but great difficulties having been found in procuring the requisite employments, the Cape and the Canadas, as being the most healthy British colonies, were next looked to.

“ 4. Owing to the want of interest evinced by the persons who had undertaken the management of the society's affairs in the Canadas, and the facilities arising there, from the vicinity of the United States, for the escape of the children from their masters, these colonies were given up, and the Cape of Good Hope was looked to, if not as the only, yet as the chief place of emigration for the wards of the society.

“ 5. The advantages held out in the latter colony were considerable:—The demand for emigrants of this peculiar kind was so great, that a fee from £7 to £9 was readily paid by the masters towards the funds of the society, on each apprentice-



ship :—very favourable provisions were allowed for the protection of the children :—and lastly, an active and intelligent committee at the Cape evinced the greatest readiness to forward the benevolent objects of the society at home.

Govt. Advt.  
Sept. 13, 1839

Treatment of  
Juv. Emgts.

“ 6. Under these circumstances emigration from the society's schools to the Cape colony proceeded rapidly, and up to this date as many as 750 children have been sent there, the greater portion of whose terms of apprenticeship is yet unexpired.—Some difficulties, however, having been raised about the legality of the indentures under which the children were bound, in the year 1836 an ordinance, or act of the colonial government, (since ratified at home,) was obtained, in order to give effect to the apprenticeships entered into by the commissioners at the Cape on behalf of the society's wards. Of this a printed copy is returned herewith, and a glance at its provisions will shew that the Children's Friend Society, being thus supported and countenanced by government, besides being in the continual receipt of favourable intelligence from the Cape commissioners, had good reason to believe that they were engaged in a large sphere of usefulness.

“ 7. Under this conviction they remained without the slightest contrary suspicion until about eighteen months ago, when information of a less favourable nature was communicated to them. There were circumstances, however, of a peculiar kind, which led them to view this information with distrust, as probably emanating from party views. But they immediately wrote out in very strong terms to the commissioners at the Cape, and having done this and taken all possible precautions against the reported evils, and being moreover, on the point of sending out a chaplain for the express benefit of the apprentices in general, (a matron having already gone out for the girls,) the committee, under these circumstances, considered it their duty to continue the existing system ; and a chaplain was accordingly sent out in the course of last year, and an inspector has also since been appointed by the commissioners on the suggestion of the society.

“ 8. The alleged causes for the unfavourable condition of the apprentices, implied in these reports, and in reports of a like nature and more recent in date, were various ; but the committee think it unnecessary to enter at length into them. There is, however, one point beyond their control, which is perhaps more palpably influential than any other probable cause of apprehension, and to that they would beg leave earnestly to draw the attention of the colonial secretary.

“ 9. In the Cape colony, slavery has prevailed for many years, and it is to be feared that the habits of many of the masters, particularly in the country, at a distance from the towns, towards their servants, may have been materially affected by this circumstance.

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" 10. The society are apprehensive that their apprentices may have been looked upon much in the same light as slaves. And that this view has been strengthened by the payment of the fee abovementioned by the masters.

" 11. The apprenticeships which preceded the complete emancipation of slaves throughout the empire, may also have led the masters to look on the apprenticeships, under the society's indentures, as a servitude of a like description. And although the clauses in these indentures contain sufficient provisions against the evils which might arise from such an erroneous assimilation of the one class of servants to the other, yet the strict enforcement of these clauses appears to be extremely difficult.

" 12. Moreover, the emancipation of the slaves, however satisfactory in other points of view, and especially as tending to change the feelings of the upper and middle classes, threatens this evil, viz. that the society's apprentices will henceforth be looked upon as the only remaining slaves, and will be proportionately hard worked and despised.

" 13. Under these circumstances, the committee of the Children's Friend Society humbly submit to the colonial secretary, that it is extremely desirable that some steps should be taken by the authority of government for preventing the occurrence of such evils. And as the commissioners at the Cape are by the colonial ordinance above mentioned constituted to be public servants—as besides many children are sent out by the society from parish workhouses, and from the war office, and other public authorities, by the order or with the approbation of the home secretary, and a public character has thus been stamped upon the proceedings of the society,—they hope the colonial secretary will see sufficient grounds for looking upon the question as one altogether fit for the intervention of government.

" 14. Should this view be admitted, they would suggest that instructions should be sent to the Governor at the Cape, to employ some intelligent person, who, as an officer of the government, might be independent of all local connections, (as for instance an officer in the artillery or engineers) to make a thorough inquiry into the condition of the apprentices. And that the reasons assigned for it should be, not in the way of charge against the present commissioners, but the peculiar circumstances arising out of the recent emancipation of slavery,—the growing importance of a system of emigration such as that adopted by the society—and the consequent interest of government in its success.

" 15. In conclusion, the committee beg, that if this plan be adopted, they may be allowed to furnish detailed heads of inquiry for the guidance of the officers employed in this service."

Without either admitting or denying the correctness of the

committee's assumptions, His Excellency feels it due not only to the apprentices themselves, but to their masters, and the local commissioners,—nay, to the bulk of the inhabitants of the colony,—that a thorough investigation of the whole matter should take place: and that the object will be best accomplished by committing the task to one or more of the temporary magistrates, who were of the number of the late special justices, within—or in the immediate vicinity of—whose local jurisdictions the great mass of those apprentices reside.

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Juv. Emgts.

These officers are at once disposable for the inquiry, and may effect its objects without material interference with their magisterial duties; they are probably more independent of local connections than any of the colonial public servants, and were moreover especially selected by His late Majesty's Government for the performance of duties of far greater importance than those which will now devolve upon them.

It is to be regretted that the *detailed heads of inquiry* alluded to in the committee's representation have not reached this government, or the local commissioners; and in the absence of those detailed instructions, His Excellency will in the first place endeavour to impress on the magistrates selected for the inquiry, that, although all such complaints or statements as shall be made to them by, or on behalf of, the apprentices, in regard to ill-treatment of any sort, or the failure of the masters in performing their part of the indentures, should be received with the utmost readiness,—yet it cannot be denied, and ought not to be forgotten, that many of the children sent hither by the society, were either in, or bordering on, a state of depravity and destitution, when that institution afforded its assistance in saving and reclaiming them; but this circumstance must not be allowed to stand in the way of the inquiry, the sole object of which is *the elicitation of the whole truth*, whether it shall make for or against the master, the apprentice, the society or the local commissioners.

Knowing, therefore, the principal object of this inquiry, the magistrates cannot be at a loss for such questions as, being pointedly put and *truly* answered, shall embrace the greater part, if not the whole, of the information required. The health, and—as indicative thereof, the personal appearance of the apprentices; their regularity, industry, and obedience; their moral habits, religious instruction, and attendance where practicable at divine service; and the probability, deducible from all these, of the apprentices being able when out of their indentures to obtain their livelihood in situations of respectability and comparative comfort:—these seem the principal points as regards the servant.

The general treatment by the masters,—the employment of, or trades taught to the apprentices—and the facilities afforded



Govt. Advt.  
Sept. 13, 1839

Treatment of  
Juv. Emgrs.

to them of communicating with their relatives and friends at home, if so inclined, will complete the object of the inquiry into their actual condition, as far as that object has been understood.

The investigation may produce the most unfavorable evidence as to the working of the whole system: but it will at the same time, if properly conducted, suggest the means of remedy, if any such exist.

The board of commissioners in Cape Town, whose anxiety for the fullest inquiry is equalled by their intimate acquaintance with the whole subject, will furnish the magistrates with local and particular information, which will save the latter much trouble and delay; and His Excellency therefore requests the parties will get into communication with each other as early as may be convenient to both.

Major Longmore will conduct the inquiry in Cape Town, and the Cape, Wynberg and Stellenbosch districts.

Major Piers in the Paarl district.

Captain Hill in the Malmesbury district, and adjacents not elsewhere included; and Major Barnes in the Caledon and Swellendam districts.

Major Longmore will further inquire into the following particulars, and make them the subject of a separate report:—

1. The treatment of the juvenile emigrants during the voyage to the Cape.

2. The manner in which they were received and treated by the commissioners on their arrival.

3. The principles and instructions on which the commissioners proceeded in apprenticing the emigrants.

4. The terms on which they were apprenticed.

5. The powers vested by law in the commissioners for the protection of the emigrants during the term of their apprenticeship.

The reports, which ought to mention the number of apprentices who appeared before the magistrates respectively, are to be addressed to His Excellency, and transmitted to this office.

Colonial Office, Cape of Good Hope, 13th September 1839.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

#### *Removal of Prisoners.*

Govt. Advt.  
Sept. 20, 1839

Removal of  
Prisoners.

His Excellency the Governor desires that whenever it may become necessary to remove prisoners from one gaol to another, arrangements should be made to prevent their conveyance on

Sundays, that practice having been very justly complained of as burdensome on the field-cornets.

Govt. Advt.  
Sept. 20, 1839

If the journey should be so long as necessarily to include a Sunday, it should be so managed that the prisoner shall reach some intermediate place of confinement on the preceding Saturday, there to remain until the following Monday.

Removal of  
Prisoners.

Colonial Office, Cape of Good Hope, 20th September 1839.

By His Excellency's Command,

(Signed)

John Bell,

Secretary to Government.

No. 8, 1839.—Signed, Geo. Napier.

*Ordinance for enabling the board of executors to sue and be sued in the name of their secretary.<sup>(1)</sup>*

*Preamble.*

WHEREAS the following persons, viz. the hon. Henry Cloete, Lawrence son, esq. L.L.D., Andries Brink, Cornelis' son, William Gadney, Gysbert Henry Maasdorp, Johan Andries Heyse Wicht, Jan Hendrik Hofmeyr, Jan's son, LL.D., Petrus Johannes Pentz, senior, Petrus Michiel Brink, Johan Gotlōb Stegmann, Johannes Tromp, the honorable Michiel van Breda, senior, esquire, Frederik Godfried Watermeyer, Hendrik Johannes Hofmeyr, Harrison Watson, Samuel Oliver, Ewan Christian, Frederik Stephanus Watermeyer, William George Anderson, Stephanus Johannes Hofmeyr, Jan's son, Pieter Donald Höhne, Rynier Christiaan Hoets, George Wolfgang Spengler, Fredrik Russouw, senior, Charles Marais, Petrus Michiel Tesselaar, Adriaan Louw, Adriaan's son, Fredrik Ryk Ludolph Neethling, senior, Johan Fredrik Pentz, senior, Paul Johannes Roux, Paul's son, Michiel Christiaan Vos, Coenraad Johannes Carolus Gie, Johannes Hermanus Redelinghuys, Arend Hermanus Hofmeyr, Nicolaas Johannes Ley, Adriaan Vincent Bergh, John Deane, Oloff John Truter, Pieter Hendrik Ley, Christoffel Joseph Brand, LL.D., William Bridekirk, Pieter van Breda, Arend's son, Pieter Fredrik Ryk de Villiers, Johan George Steytler, George's son, Carel Mauritz Zastron, Michiel Christiaan Ackerman Neethling, Jacob Pieter Deneys, John Reid, Kenneth Nicolaas van Breda, Johannes Joseph Jurgens, junior, Oloff Marthinus Bergh, Marthinus' son,—did, by a deed bearing date the 22d day of August 1838, enter into a contract of co-partnership, for the purpose of administering such property and estates as they

Ordinance  
No. 8, 1839.

Board of  
Executors.

<sup>(1)</sup> Sanctioned and allowed by the Queen,—vide Proclamation 20th July 1843.

Ordinance  
No. 8, 1839.

Board of  
Executors.

may be lawfully appointed to, as executors, administrators, tutors, or curators, either under and by virtue of any order or decree of any competent court, or of the legal authority of any public officer competent thereto, or of the valid will and testament, or other deed, of any person or persons qualified to act in such behalf, as also of administering such property and affairs as they may be duly entrusted with by any person removing or being absent from this colony; and whereas the said persons have raised among themselves a joint stock or capital of ten thousand pounds sterling, in fifty shares of two hundred pounds sterling each, to serve as an available fund to satisfy any claim or demand which any person may hereafter have upon the said co-partnership; and whereas the said persons have applied for an Ordinance to incorporate the said co-partnership and joint stock company, and in order the better to enable them to carry the said objects into effect; and whereas the interests of this colony will be thereby greatly promoted:

*Persons herein named to constitute a company, under the style of the Board of Executors.*

1. Be it therefore enacted by the Governor of the colony of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that it shall and may be lawful for the said persons who have executed the said deed, and such others as may become entitled to the privilege of this Ordinance, under and by virtue of the provisions of the said deed, to be and continue joint stock proprietors of the said sum of ten thousand pounds, and of all such sums as they may hereafter acquire under the provisions of the said deed, and to constitute and be a company for the purposes before-mentioned, to be carried on under the style or firm of "the Board of Executors."

*Copy of deed executed by the company, to be filed in the office of the registrar of the supreme court.*

2. And be it enacted, that a copy of the deed so executed by the said persons, duly authenticated by the secretary of the said Board of Executors appointed under the provisions of the said deed, shall be filed in the office of the registrar of the supreme court of this colony of the Cape of Good Hope within one month after the passing of this Ordinance; and in like manner a return of the names of the several persons at the time being members of the said Board of Executors, with their respective places of abode, and the name and place of abode of the chairman, and of each director thereof, and of the secretary thereof, in the same manner authenticated, shall be at the same time filed in the said office.



*Copy of alteration in, or addition to, deed, to be filed.*

3. And be it enacted, that a copy of all alterations in, or additions to, the said deed, which may at any time be made in conformity with the provisions therein contained, shall, within one month after any such alterations or additions shall have been duly made, in like manner authenticated, shall be in like manner filed in the office of the said registrar.

Ordinance  
No. 8, 1839.

Board of  
Executors.

*Return to be made of every transfer of any share.*

4. And be it enacted, that whenever the transfer of any share in the said co-partnership or company shall be made, a return, in like manner authenticated, shall, within one month after such transfer shall have been made, be in like manner filed in the office of the said registrar, and which return shall contain the date of such transfer, the name and place of abode of the person by whom, or in whose behalf such transfer is made, and the name and place of abode of the person to whom such transfer is made.

*Return to be made of officers of the company.*

5. And be it enacted, that a return, in like manner authenticated, shall from time to time, as occasion shall render it necessary, be filed in the office of the said Registrar, of the name and place of abode of any person who shall have been appointed chairman, director, or secretary, in place of any former chairman, director, or secretary, within one month after such appointment shall have been made.

*Copy of deed or alteration, or addition, or return, certified by registrar, to be admissible in evidence.*

6. And be it enacted, that a copy made from the copy of the said deed, or of any alteration in, or addition thereto which may have been made and filed as aforesaid, and that a copy of any such return of any such chairman, director, secretary, or member, certified under the hand of the registrar of the supreme court, shall, in proceedings, civil or criminal, be received in evidence or proof of such deed, or of any such alteration or addition as aforesaid, or of the authority of the officer named in any such return, and also of the fact that all persons therein named as members were such at the date of such return.

*Appointments of directors or of secretary thereof made, to be valid.*

7. And be it enacted, that all appointments under and by virtue of any last will and testament, codicil, or of any deed or act which shall have been, at any time previous to the passing of this Ordinance, or which shall hereafter be, duly made and executed, of the directors of the Board of Executors, or of the secretary of the Board of Exe-

Ordinance  
No. 8, 1839.

Board of  
Executors.

cutors, as executors, administrators, tutors, curators, or agents, or as executor, administrator, tutor, curator, or agent, as the case may be, shall be deemed, and taken to be, a valid appointment of the Board of Executors hereby constituted.

*Evidence of any officer or member to be valid.*

8. And be it enacted, that in all actions, suits, and proceedings, whether civil or criminal, the evidence of any person being an officer or member of the said Board of Executors, shall be admissible in like manner as if such person were not an officer or member thereof.

*Actions to be brought by secretary.*

9. And be it enacted, that all actions and suits, and all other proceedings at law to be commenced or instituted for and on behalf of the said Board of Executors against any person or persons, bodies politic or corporate, or others, (whether members of the said Board of Executors or otherwise,) for recovering any debts or enforcing any claims or demands due to the said Board of Executors, or for any other matter relating to the concerns of the said Board of Executors, shall, and lawfully may, after the passing of this Ordinance, be commenced or instituted and prosecuted to a final judgment or sentence in the name of the secretary of the Board of Executors as the nominal plaintiff, applicant, or petitioner, for and on behalf of the said Board of Executors, and shall, and lawfully may, subject to the provisions of the Ordinances Nos. 40 and 73, or of any law or ordinance which may hereafter be enacted in that behalf, prosecute any criminal action for any fraud, crime, or offence, committed against, or with intent to defraud, the said Board of Executors, or the members thereof jointly, and that no action or other proceeding shall abate, discontinue, or be rendered ineffectual by reason of the death or resignation of such secretary, but the secretary for the time being shall always be deemed to be the plaintiff, applicant, petitioner, or prosecutor, in any such action, suit, or other proceeding, as the case may be; and that all actions and suits and proceedings at law, to be commenced or instituted by any person or persons, bodies politic, or corporate, or others, whether members of the said Board of Executors or otherwise, against the said Board of Executors, or against the said members thereof jointly, shall, and lawfully may, be commenced, instituted, and prosecuted to final judgment or sentence against the said secretary of the said Board of Executors, as the nominal defendant or respondent, for and on behalf of the said Board of Executors, or of the members of the said Board of Executors aforesaid, and not against the Board

of Executors, or any of them, or against the members, or any of them.

Ordinance  
No. 8, 1839.

Board of  
Executors.

*Secretary may bring action against any member.*

10. And be it enacted, that it shall and may be lawful for the secretary of the said Board of Executors, to bring and maintain any action, suit, or other proceeding at law, against any person being an officer or member of the said Board of Executors, for or on account of any claim or demand which the said Board of Executors may have against such person, in like manner as if he were not an officer or member thereof.

*Any officer or member may bring his action against the secretary.*

11. And be it enacted, that it shall and may be lawful for any person, being an officer or member of the said Board of Executors, to bring and maintain any action, suit, or other proceeding at law, against the secretary of the said Board of Executors, for or on account of any claim or demand which he may have against the said Board of Executors, in like manner as if such person were not a member of the said Board of Executors.

*Claim of members not to be set off against capital stock or dividend, &c.*

12. And be it further enacted, that no claim or demand which any member of the said Board of Executors may have in respect of his share of the capital stock of the said co-partnership, or of any dividends, interest, or profits, payable in respect of such Share, shall be capable of being set off, and that no claim in reconvention shall be brought on account of any such share, or dividends, or profits, against any demand which the said Board of Executors may have against such member on account of any other matter or thing whatsoever, but all proceedings in respect of such other matter or thing may be carried on as if no claim or demand existed in respect of such capital stock, or of any dividends, interests, or profits, payable in respect thereof.

*Any two directors may execute inventory, &c.*

13. And be it enacted, that it shall and may be lawful for any two directors of the said Board of Executors, to execute any bond, or other act, for and on behalf of the said Board of Executors, to draw up and execute any inventory or liquidation, distribution, or other account, and all such bonds, acts, inventories, and accounts so executed shall be equally valid as if the same had been done and executed by every one of the members thereof.

*Duration of this ordinance.*

14. And it be enacted, that the said Board of Executors



Ordinance  
No. 8, 1839.

Board of  
Executors.

shall continue and be in force until the first day of May in the year one thousand eight hundred and sixty, and that from and after the first day of May one thousand eight hundred and sixty, the said Board of Executors shall not enter upon the administration of any property or estate; Provided, however, that the said Board of Executors shall be authorised to continue the administration of any property or estate upon which they shall have previously entered, so as without delay to bring the same to a final settlement, for which purpose only, the said Board of Executors shall thenceforth continue under and by virtue of the provisions of this ordinance.

*Public ordinance.*

15. And be it enacted, that this ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of by all judges, magistrates, and others, without being specially pleaded.

*God save the Queen!*

Given at the Cape of Good Hope, this 31st Day of October, 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,

Acting Clerk of the Legislative Council.

*Government Advertisement.*

Govt. Advt.  
Nov. 6, 1839.

Parishes  
Breda's dorp  
& Riversdale

WITH reference to the advertisement of the 18th March last, notifying the limits of the new parishes of Riversdale and Breda's-dorp, in the division of Swellendam, His Excellency the Governor has been pleased, upon the recommendation of the presbytery of Swellendam, to approve of the following alterations in those limits, viz :

1. The parish of Riversdale shall be separated from that of Swellendam by the *Duivenhoks River*, from the sea to the farm Doornkraal, now in the possession of Mr. C. Britz, and shall include all the places or farms on the Plattekloof, and in the field-cornetcies of Lange-berg and Zwarte-berg.

2. The Farms Leeuwenkop, (misnamed Leeuwendans in the advertisements above referred to,) Witte Klip, and Rondeheuvel, shall cease to form part of the parish of Breda's dorp, and are, therefore, hereby again attached to that of Swellendam.

Colonial Office, Cape of Good Hope, 6th November 1839.

By His Excellency's Command,

(Signed) John Bell,

Secretary to Government.

No. 9, 1839.—Signed, George Napier.

Ordinance  
No. 9, 1839.

For amend.  
Ord. No. 60.

*Ordinance for amending Ordinance No. 60, entitled "an ordinance for preventing the mischiefs arising from the printing and publishing newspapers and papers of a like nature by persons not known, and for regulating the printing and publication of such papers in other respects, and also for restraining the abuses arising from the publication of blasphemous and seditious libels."*(<sup>1</sup>)

*Preamble.—affidavit to be delivered to clerk of the peace, instead of colonial secretary.*

WHEREAS newspapers and papers of a like nature have been, and are likely to be, printed and published in parts of this colony, at a distance from Cape Town; and whereas it is expedient to relieve the persons concerned in the printing and publishing of the same from the necessity of resorting to Cape Town, in order to make the affidavits or affirmations in the said ordinance mentioned before the colonial secretary, or in order to enter into the recognizances in the said ordinance mentioned, before one of the judges of the supreme court.<sup>(2)</sup> Be it therefore enacted by His Excellency the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the passing and publication of this ordinance, all and every the affidavit or affidavits, affirmation or affirmations, which is, or are, by the said ordinance directed or permitted to be taken or made before, or delivered to, the colonial secretary for the time being, shall and may be taken or made before, or delivered to, the clerk of the peace for the time being of the district in which the newspaper or paper of a like nature, to which such affidavit or affidavits, affirmation or affirmations, shall relate, shall be intended to be, or shall have been, printed and published.

*Clerk of the peace to transmit same forthwith.*

2. And be it further enacted, that every clerk of the peace, before whom any such affidavit or affidavits, affirmation or affirmations, shall be taken or made, or to whom the same shall be delivered, shall forthwith transmit the same to the colonial secretary in Cape Town, to be by him filed and kept, in the manner and for the purposes in the said ordinance mentioned.

*Recognizance to be entered into before resident magistrate, instead of one of the judges.*

3. And be it further enacted, that from and after the passing and publication of this ordinance, every recognizance of the

(<sup>1</sup>) Sanctioned and allowed by the Queen, vide Proclamation 7th September 1841,

(<sup>2</sup>) Vide vol. 2 p. 22.

Ordinance  
No. 9, 1839

For amend.  
Ord. No. 60.

nature in the fifteenth section, or other sections of the said ordinance mentioned, and which is therein directed to be entered into before one of the judges of the supreme court, shall and may be entered into before the resident magistrate for the time being of the district in which the newspaper or paper of a like nature to which such recognizance shall relate, shall be intended to be, or shall have been printed and published.

*Resident Magistrate to transmit same forthwith.*

4. And be it further enacted, that every such resident magistrate, before whom any such recognizance shall be entered into, shall forthwith transmit a certificate of the same to the colonial secretary in Cape Town, who shall keep and file such certificate in the same manner as the affidavit or affidavits, affirmation or affirmations, hereinbefore and in the ordinance No. 60 mentioned.

*This Ordinance not to extend to Cape Town or Cape District.*

5. Provided always, that nothing herein contained shall extend to, or effect, the case of any newspaper or paper of a like nature, printed and published, or intended so to be, within Cape Town, or the Cape district, and that all and every of the provisions of the said Ordinance No. 60, save and except so far as the same are hereby expressly altered and amended, shall be and continue of full force and effect.

*God save the Queen !*

Given at the Cape of Good Hope, this 27th day of November 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,  
Acting Clerk of the Legislative Council.

No. 10, 1839.—Signed, Geo. Napier.

*Ordinance, for opening and improving the River Kowie.*

*Preamble,—course of river to be altered and improved.*

Ordinance  
No. 10, 1839.

Opening  
River Kowie

WHEREAS the entrance of the river Kowie, in the district of Albany, is not navigable, and William Cock and George Hodgskin, proprietors of lands situate on the right or western bank of the said river, have proposed to make such alterations and execute such works in and about the said river as may render it accessible to ships or vessels drawing eight feet of water: And whereas it would be greatly to the advantage of the public, and the trade and commerce of this settlement, that the said river should be made so accessible, and it is advisable, in order



to defray the expenses thereof, that certain tonnage and wharfage dues should be levied on vessels frequenting the said river, and their cargoes : Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof,—that it shall be lawful for the said William Cock and George Hodgskin, and their assigns, to alter and improve the course of the said river, and for that purpose to cut such channels, to form such embankments, and to construct such flood gates and other works, as to them may seem expedient to render the said river accessible to ships or vessels drawing eight feet of water, and to construct in the said river, a wharf or jetty for the landing and shipment of goods, and thereafter to maintain and preserve the said river and works.

Ordinance  
No. 10, 1839.

Opening  
River Kowie

*Waste land to be used for that purpose.*

2. That, for effecting the said alterations and works, it shall be lawful for the said William Cock and George Hodgskin, and their assigns, to use so much of the waste or unappropriated crown land adjacent to the said river, and so much of the wood, stone, clay, gravel, or other materials, in or upon such land as may be necessary or convenient for such purposes.

*Tonnage and wharfage dues to be levied.*

3. That there shall be levied and taken upon all ships or vessels which shall enter the said river, (save ships or vessels belonging to the royal navy) the tonnage dues set forth in the schedule hereunto annexed, and upon all goods which shall be landed or shipped in the said river, the wharfage dues set forth in the said schedule.

*By whom collected.*

4. That the said tonnage and wharfage dues shall be levied and collected by the said William Cock and George Hodgskin, or their assigns, and they shall have and exercise the same powers and remedies for enforcing payment thereof as are held and exercised by any of the collectors of the public revenue in this settlement, and moreover a right of retention of the ships, vessels, or goods, in respect of which such tonnage, or wharfage dues, shall have become payable, until the same shall be paid.

*How appropriated.*

5. That the monies to be received on the tonnage and wharfage dues as aforesaid, shall be appropriated, in the first place, for paying the expense of preserving and maintaining the said river and works, and then in paying off all such sums of money as the said William Cock and George Hodgskin, or their assigns, shall have *bona fide* advanced and expended in

Ordinance  
No. 10, 1839.

Opening  
River Kowie

and about the alteration and improvement of the said river and the works aforesaid, together with interest thereon, to be calculated at the rate of twelve per cent. per annum, from the date of the respective advances; and after such payment shall have been made, the residue of the said monies shall be paid into the public treasury.

*Accounts of expenditure and receipts to be rendered.*

6. That the said William Cock and George Hodgskin, or their assigns, shall keep a true, real, and particular account of all such sums of money as shall be actually and *bona fide* advanced and expended in and about the alterations, improvements, and works aforesaid, and the dates of the respective advances, and shall, when required, and after the completion of the said work, render such account to the Governor of the settlement, and shall also render to the said Governor quarterly returns of all monies received for tonnage and wharfage dues, and of the appropriation thereof.

*Land to be granted for public buildings and roads;—a like quantity to be received in lieu thereof.*

7. That the said William Cock and George Hodgskin, or their assigns, shall, when the said river shall have been rendered accessible, and a wharf or jetty constructed as aforesaid, grant to the government of this settlement a piece of land situate at a convenient distance from the said wharf or jetty, and measuring on each side not more than two hundred feet, for the purpose of erecting thereon such commissariat stores or other buildings as may be required for the public service, and shall also, when required thereto, grant to the government any such other piece or pieces of land, to be taken at a fair and reasonable valuation, and shall further grant the use of a public road through their lands, from such wharf or jetty, towards Graham's Town, and shall, in lieu of the said road, receive a grant of such waste or unappropriated crown land as shall then be between their land and the right bank of the said river, as it shall then run, and such other waste or unappropriated land adjacent to their land as may be equal to the quantity of land to be granted by them for the use of the said public road.

*Duration of this ordinance.*

8. That this ordinance shall continue in force for the term of fourteen years from the passing thereof, and further, until the said William Cock and George Hodgskin, or their assigns, shall have been repaid the sums of money advanced by them, with interest as aforesaid; and, further, until the government of this settlement shall have made other provisions for the preserving and maintaining the said river and works. Pro-

vided, however, that if the said William Cock and George Hodgskin, or their assigns, shall fail, or omit to make, the said river accessible to vessels drawing eight feet of water, within three years from the passing hereof, or within such term as may be granted for that purpose by the government of this settlement, then this ordinance shall cease.

Ordinance  
No. 10, 1839.

Opening  
River Kowie

*Ordinance to be deemed a public act.*

9. That this ordinance shall be deemed and taken to be a public ordinance, and shall be judicially taken notice of as such, by all judges, magistrates, and others, without being specially pleaded.

*God save the Queen!*

Given at the Cape of Good Hope, this 27th day of November 1839.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,

Acting Clerk of the Legislative Council.

Schedule of Tonnage Dues on Ships or Vessels which shall enter the River Kowie, and Wharfage Dues on all Goods landed or shipped in the said River.

*Tonnage Dues.*

For every ton of the registered admeasureance of any ship or vessel which shall enter the said River, - - - - £0 3 0

*Wharfage Dues on Packages or articles landed or shipped.*

On every pipe or other cask of the capacity of 80 gallons or upwards, and containing wine, spirits, or other liquids, - - -	0 1 0
" hogshead or other cask, of the capacity of 40 gallons, and under 80 gallons, and containing wine, spirits, or other liquids, - - - - -	0 0 6
" quarter cask, or other cask, of less capacity than 40 gallons, and containing wine, spirits, or other liquids, - - -	0 0 3
" chest, case, cask, hamper, or other package, containing wine, spirits, or other liquids, in bottles or stone jars, viz:—	
If the quantity shall be 15 gallons or upwards, - - -	0 0 9
If 10 gallons, and less than 15 gallons, - - -	0 0 6
If 5 do. and less than 10 do. - - -	0 0 3
If less than 5 ditto, - - - - -	0 0 2
" chest, box, or other package, containing not less than 50lbs. weight of tea, - - - - -	0 0 4
If less than 50lbs. - - - - -	0 0 2
" roll or basket of tobacco, - - - - -	0 0 3
" other package containing tobacco of 3 cwt. or upwards, - - -	0 1 5
" bag of coffee, sugar, rice, sago, saltpetre, cloves, tamarinds, gall nuts, turmeric, or pepper, - - -	0 0 2
For every quarter of wheat, barley, oats, rye, or other grain, - - -	0 0 3



Ordinance No. 10, 1839.	For every 100 deals or battens, viz: each not exceeding 16 feet				
	in length, - - - - -				£0 2 0
Opening River Kowie	If exceeding 16 feet in length, - - - - -				0 3 6
	1000 staves,—stuckvat, - - - - -				0 5 0
	1000 do. pipe, - - - - -				0 2 6
	1000 do. hogshead or barrel, - - - - -				0 1 0
	1000 pieces do. heading, - - - - -				0 1 0
	1000 bricks, tiles, or slates, - - - - -				0 2 0
"	ton of coals, - - - - -				0 1 0
"	do. of paving stones, - - - - -				0 2 0
"	do. of heavy goods, not otherwise described, - - - - -				0 2 0
"	10 bundles of rattans, - - - - -				0 0 2
"	load of 50 cubic feet of timber or planks, and not otherwise described, - - - - -				0 2 6
"	case, bale, box, trunk, bundle, or other package whatsoever, not otherwise described, and containing dry goods, skins, &c. - - - - -				
	If measuring 40 cubic feet and upwards, - - - - -				0 3 0
	Do. 30 do. and less than 40 cubic feet, - - - - -				0 2 3
	Do. 20 do. and less than 30 do. - - - - -				0 1 6
	Do. 10 do. and less than 20 do. - - - - -				0 0 9
	Do. 5 do. and less than 10 do. - - - - -				0 0 6
	Do. 2 do. and less than 5 do. - - - - -				0 0 4
	Do. under 2 do. - - - - -				0 0 2
"	spar or mast, - - - - -				
	If not exceeding 8 inches in diameter, - - - - -				0 0 6
	Do. or do. if exceeding 8 inches in diameter, - - - - -				0 2 6
"	mill-stone, - - - - -				0 1 0
"	crate of empty bottles, containing, viz: - - - - -				
	20 dozen or upwards, - - - - -				0 0 6
	Less than 20 dozen, - - - - -				0 0 3
"	small jar, can, or bottle of oil, - - - - -				0 0 1
"	horse, mule, or ass, - - - - -				0 3 0
"	head of large cattle, - - - - -				0 1 0
	For Hides, per 2000lbs. - - - - -				0 2 6
"	Horns, per 1000, - - - - -				0 3 0

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, K.C.B. &c. &c.*

Proclamation  
Feb. 7, 1840.  
Vaccine virus

WHEREAS it has been represented to me that there is good reason to apprehend that the *vaccine virus* will be lost in this colony, unless measures be taken to provide for the performance of vaccination in all the principal towns and villages, and within a certain distance thereof, by those medical practitioners only, who are, or shall be, specially authorised by me to that effect, whereby a constant and regular supply of *virus* will be secured: now therefore I do hereby proclaim and declare,—that from and after the date hereof, in Cape Town, and from and after the 14th instant in the several country districts, the government advertisement dated the 15th of Dec. 1831, under which all persons entitled to practise in any branch of the medical profession, and all persons then already appointed, or who might thereafter be appointed for that purpose by any such qualified practitioner were permitted to vaccinate, shall be, and the same is hereby, cancelled and withdrawn.

And I do hereby direct, that henceforward, vaccination shall be conducted under the following regulations, viz. :

Proclamation  
Feb. 7, 1840.

Vaccine virus

In Cape Town and the district thereof, and in every town or village in the country districts, where there is or shall be a medical practitioner employed and paid by government, and within the limits of the municipality thereof, if any, and if there be no municipality, then within two miles of the parish church of such town or village, —vaccination shall be performed only by the said medical practitioner employed or paid by government, or by such other practitioners as shall be thereunto specially appointed by the governor for the time being.

2. Beyond the limits of Cape Town and the district thereof, or the limits hereinbefore mentioned in regard to country towns or villages, and in towns or villages where there is no government medical practitioner, vaccination may continue to be performed by all persons entitled to practise in any branch of the medical profession, and all persons who may be appointed for that purpose by any such qualified practitioner.

3. The government vaccinators are authorized and directed to demand and receive, for and on account of each person brought before them, respectively, to be vaccinated, a deposit not exceeding *five shillings*, for which a receipt will be given, and to refuse vaccination until such demand shall have been complied with ; which deposit shall be returned to the depositor, on production of the vaccinated person, by or on whose behalf the deposit shall have been made, before the vaccinator, at the vaccine office, on the eighth day after his or her vaccination, otherwise the deposit shall be forfeited.

In cases of great poverty, however, the vaccinator is at liberty to dispense with any deposit being made ; and if the impossibility of such re-attendance of the vaccinated person, for or by whom any deposit shall have been made, be proved, to the satisfaction of the vaccinator, the amount of deposit shall be returned.

4. Forfeited deposits shall be reported monthly to government, and shall only be applied towards the encouragement of vaccination.

And whereas many medical practitioners now practising in this colony may not be aware of the laws relative to the profession, I have directed that the subjoined reference to the principal regulations relative to vaccination, shall be published for general information.<sup>(1)</sup>

*God save the Queen !*

Given under my hand and the public seal of the settlement at the Cape of Good Hope, this 7th day of February 1844.

(Signed) George Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

(1) *Vide Ordinance No. 12, 1836, vol. 2. p. 426.*

Proclamation  
Feb. 7, 1840.

Vaccine virus

1. Proclamation, 24th April 1807, sect. 7.—“No person whatever to practise as a physician, surgeon, or apothecary, or to retail or vend medicines under any other name whatsoever, without a regular licence recommended by the supreme medical committee, under a penalty of five hundred rixdollars.”—(This penalty now is £50.)

2. Proclamation, 23d April 1811, sect. 1.—“That an institution shall be established for the purpose of conducting the process of vaccination, under the management of a director, aided by two vaccinating surgeons, forming together a committee for the same.” Sect. 2. “That no person whatever shall be at liberty to inoculate (*vaccinate*,) except the above-mentioned committee, unless expressly authorised by me, on pain of a penalty of 100 rixdollars,” &c. (vaccination in Cape Town has since been committed to the charge of one medical officer).

3. Proclamation, 25th September 1812, sect. 4. “That, agreeably to the 2nd Article of the said proclamation of the 23d of April 1811, no person whomsoever, excepting the said committee, unless expressly authorised by me, shall be at liberty to inoculate (*vaccinate*,) under the same penalty of 500 rixdollars, as is prescribed by the proclamation of the 24th April 1807, against practising as a doctor, surgeon, or apothecary.”

4. Regulation for District Surgeons, 1st August 1823, sect. 7. “Vaccination shall be performed solely by the District Surgeon.”

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### Government Advertisement.

#### *Distribution of Stamps.*

Govt. Advt.  
Feb. 13, 1840.

Distribution  
of Stamps.

HIS Excellency the Governor has been pleased to direct that, from and after the 1st of March next, the several clerks of the peace in the country districts shall cease to be the distributors of stamps and issuers of land grants therein; and that the custody and distribution of the same shall thereafter be committed to the charge of the clerks of the court of the several magistracies respectively.

It will be the duty of the several clerks of the peace to ascertain on the last day of every month, the amount and description of all stamps or grants then remaining in the hands of the clerks of the courts, who are hereby directed to give every facility to such verifications, and to report the same to the civil commissioner of the division; and all stamps or grants, forwarded to the distributors are to be notified to the said clerk of the peace respectively.

The clerks of the peace will, on the 28th instant, make over all stamps and titles to the said clerks of court, reporting as herein-beforementioned to the civil commissioners, and will also hand over with such instructions as they shall from time to time



have received, respecting the duties to be performed, and regulations to be observed in their aforesaid capacities.

Colonial Office, Cape of Good Hope, 13th February 1840.

By His Excellency's Command,

(Signed)

John Bell,  
Secretary to Government.

Govt. Advt.  
Feb. 13, 1840.

Distribution  
of Stamps.

No. 1, 1840.—Signed, Geo. Napier.

*Ordinance "for the better regulation of the Municipal Board for Cape Town and the Vicinity thereof."*<sup>(1)</sup>

*Preamble,—repeal of Ordinance No. 3, 1839.*

WHEREAS the ordinance No. 3, 1839, entitled "An ordinance for the creation of a municipal board for Cape Town, and the vicinity thereof,"<sup>(2)</sup> requires to be altered and amended; and whereas it is convenient that all the provisions respecting the said municipal board should be contained in one ordinance, and it is therefore expedient to repeal the said ordinance No. 3, 1839, save so far as the same repeals previous ordinances or proclamations, or parts thereof, and to re-enact the provisions of the said Ordinance, or such of them as it may be deemed right and proper to continue; Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that the said ordinance No. 3, 1839, except in so far as the same repeals certain previous ordinances and proclamations, or parts thereof respectively, as the same are mentioned and set forth in the first section of the said ordinance, be repealed, and the same is hereby repealed accordingly.

Ordinance  
No. 1, 1840.

Municipality  
of Cape Town

*Extent of the municipality.*

2. And be it further enacted, that from and after the promulgation of this Ordinance, the municipality of Cape Town shall include the space of ground situate within the following limits,—that is to say, from the commencement of the military lines of Fort Knokke along the said lines to their termination at Zonnebloem—thence, in a straight line to the summit of the Devil's Mountain—thence along the edge of the summit of Table Mountain to the point of the edge of the said Mountain nearest the Lion's Head—thence, in a straight line, to the Government Fountain in the kloof near the Block-house—thence along the ravine through which the said fountain empties itself into the sea—from the point where the said fountain empties itself into the sea along low water mark to where the

<sup>(1)</sup> Sanctioned and allowed by the Queen, *vide* Proclamation 7th Sept. 1841;—and see Ordinance No. 2,—1844.

<sup>(2)</sup> *Vide* vol 2 p. 508.

Ordinance  
No. 1, 1840.

Municipality  
of Cape Town

western boundary line of the property now belonging to Mr. Frederik Liesching, (called Botany Bay,) prolonged northwards, runs into the sea; thence along the last mentioned boundary line to its southern extremity; thence by a line running in a straight direction to the Lion's Head: thence eastwards along the ridge and on the line which divides the waters flowing therefrom to the north and south to a point where the line of the west side of strand street, prolonged northwards, shall intersect the southern boundary line of the land now belonging to Mr. Smuts, (being lot No. 1, of the green point lots,) prolonged upward and westward: thence downward along the said boundary line, and by a prolongation of the said boundary line, in a straight direction downward and eastward across the Somerset or green point road, to a point twenty yards to the eastward of the said road; thence by a line running parallel with and twenty yards to the eastward of the said road and of the cross road branching therefrom to three anchor bay to low water mark; thence along low water mark to the point first mentioned—and shall be styled and called “the municipality of Cape Town;” and that the same, for the purposes of this ordinance, shall be under the administration of a municipal board, consisting of twelve commissioners, to be elected in manner hereinafter provided. (1)

*Wards and wardmasters.*

3. And be it further enacted, that the said municipality shall be divided into forty-eight wards, and that two wardmasters, to be elected in manner hereinafter provided, shall be appointed for each of the said wards respectively.

*Who shall be deemed to be a resident householder under this Ordinance.*

4. And be it further enacted, that every person who is the occupier of any house, warehouse, counting-house, shop, or office, either as proprietor or renter, of the yearly value or rent of not less than ten pounds sterling, shall be, and be deemed and taken to be, a resident householder within the meaning of this Ordinance, and that at the several meetings of such resident householders as aforesaid, hereinafter appointed and authorised to be holden, every such resident householder who shall be personally present, shall have and be entitled to one vote and no more; provided always, that no female shall be deemed to be a resident householder within the meaning of this ordinance, or to be competent to vote at any meeting, or to be elected to any office.

*Joint occupiers entitled to be considered resident householders.*

5. And be it further enacted, that where any premises as aforesaid, shall be jointly occupied by more persons than one

(1) *Vide Ordinance No. 4, 1839, Vol. 2. p. 534.*

as proprietors or renters, each of such joint occupiers shall be entitled to be considered a resident householder within the meaning of this ordinance, in respect of the premises so jointly occupied, in case the yearly value or rent of such premises shall be of an amount which, when divided by the number of such joint occupiers shall give a sum of not less than ten pounds for each and every such joint occupier.

Ordinance  
No. 1, 1940.

Municipality  
of Cape Town

*Meeting of householders to elect committee to fix the wards and divide them into districts.*

6. And be it further enacted, that within eight days after the promulgation of this ordinance, the resident magistrate of Cape Town, or officer at the time acting as such, shall call a meeting of resident householders residing within the said municipality, to be holden within seven days thereafter, at the town house, in order to elect and appoint a committee of so many of such resident householders, qualified in the manner hereinbefore provided as the said meeting shall deem expedient, to fix the limits of each ward within the said municipality, and to distinguish the same by numbers, and to divide the whole number of wards into districts, each of the said districts to comprise and contain four contiguous wards, and to cause the assigned limits of the said wards and of the said districts to be affixed in some conspicuous place at the town house, for public information, and to notify by advertisement in the *Government Gazette* that the same have been so affixed as aforesaid.

*The resident magistrate of Cape Town to be the chairman of such meeting.*

7. And be it further enacted, that the resident magistrate for Cape Town, or other officer acting as such, shall be the chairman of such meeting, to be held for the purpose of electing the said committee, and if any question shall arise as to the right and qualification of any individual present at such meeting, to speak or vote thereat as a resident householder, under the terms of this ordinance, the said chairman shall inquire into, and finally determine the same, and his decision thereupon shall, for the purpose of the said meeting, but no farther, be final and conclusive, and in case of an equality of votes upon any decision to be come to at the said meeting, the said chairman shall be entitled to give a casting vote.

*Committee to frame lists of persons qualified to be elected commissioners and to vote as householders respectively ;—such lists respectively, when completed to be conclusive evidence of qualification.*

8. And be it further enacted, that it shall be the duty of the committee so to be chosen as aforesaid, besides dividing the municipality into wards and districts as aforesaid, to frame and draw out an alphabetical list of all persons in the said municipi-



Ordinance  
No. 1, 1840.

Municipality  
of Cape Town

pality who, according to the qualification hereinafter provided, are eligible to be chosen as commissioners for the different districts thereof respectively, and another list of all such persons as according to the qualification hereinbefore provided are qualified as resident householders of the different wards respectively, and the said lists shall respectively be signed by the said committee, and shall, within fourteen days after the appointment of the said committee, be by them delivered to the resident magistrate of Cape Town, who is hereby required to cause the same, or a fair copy of the same, to be affixed to some conspicuous place at the town house in Cape Town, there to remain for a period of fourteen days at least, and to give public notice in the *Government Gazette* that the said lists have been so affixed. And it shall be lawful for any resident householder within the meaning of this ordinance, at any time, within fourteen days from the time of affixing the said lists as aforesaid, to claim before the resident Magistrate, or officer for the time acting as such, upon not less than twenty-four hours' notice given to the said committee, or to any two or more members thereof, that the name of any other resident householder, qualified and eligible to be placed upon the lists aforesaid, respectively, shall be placed upon the same, or to claim that the name of any person placed upon either of the said lists respectively shall be erased therefrom; and the resident magistrate, or officer at the time acting as such, is hereby empowered to hear and determine any such claim, and to administer an oath or oaths to any party whom he shall think fit to examine, and to alter and amend the said lists, or either of them, as he shall see occasion: but such magistrate or other officer shall not erase the name of any person from either of the said lists until such person shall have received, at least, forty-eight hours' notice of the investigation into his qualification, and shall be fully heard thereat, should he so desire. And at the expiration of the said period of fourteen days, from the time of the affixing of the said lists as aforesaid, the said magistrate or other officer shall make out and keep in safety an amended list of the persons eligible to be chosen commissioners for each respective district, and another amended list of the persons qualified to act as resident householders in each respective ward, and the fact that the name of any particular person is to be found upon either of the said amended lists, respectively, shall be final and conclusive evidence of the eligibility of such person to be elected a commissioner, or to be elected as a wardmaster, or to act as a resident householder, as the case may be, at any time until the new lists hereinafter mentioned and directed shall have been framed and completed in the manner hereinafter stated. And no person whose name shall not be found upon the said amended lists shall be taken to be qualified either to be chosen a com-

missioner, or wardmaster, or to act as a resident householder, as the case may be.

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*Meeting for the election of commissioners.*

9. And be it further enacted, that so soon as the lists in the last section mentioned, shall have been affixed as therein provided for the space of fourteen days, the resident magistrate of Cape Town, or other officer, acting as such shall, and he is hereby required, by a public notice of not less than fourteen days, to call separate meetings of all the resident householders of each of the said districts respectively, to be holden in the town house, or some other fit and convenient place or places, for the election of one commissioner for every such district.

*Who may be elected a commissioner.*

10. And be it further enacted, that any resident householder of the said municipality, being the proprietor of landed property situate within any district thereof, of the value of not less than one thousand pounds sterling, shall be eligible to be elected a commissioner for such district for the purposes of this ordinance.

*Mode of proceedings at meetings for the election of commissioners.*

11. And be it further enacted, that at every meeting for the election of any commissioner or commissioners, every candidate shall be proposed at the said meeting by some person duly qualified to vote thereat, and shall be seconded by some other such qualified person; and every vote which at any such election shall be given for any person who has not been so proposed and seconded, shall not be taken into account in such election, but shall be wholly void and ineffectual: And that the votes shall be taken by ballot, and the person or persons having the greatest number of votes shall be elected commissioner or commissioners, as the case may be: Provided always, that when by reason of any two or more candidates having obtained an equal number of votes, any ballot shall be indecisive as to them, such candidates shall forthwith be ballotted for a second time, and he or they who shall obtain the greatest number of votes, shall be elected commissioner or commissioners, as the case may be: but if such second ballot shall also be rendered indecisive, by reason of equality of votes, the chairman of the meeting shall decide the election by his casting vote;—Provided always, that at every election of a commissioner for any particular district, every resident householder of the said municipality, who shall be found upon the list hereinbefore mentioned, as possessing a qualification as such resident householder within any ward belonging to such district, shall be competent to vote at such election; although such resident householder may be found upon the said list as qualified to vote in some other district or districts, by virtue of some other property in some of

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the wards thereof situated, and may have exercised, or may claim to exercise, his right of voting therein.

*Commissioners first elected to go out of office, and be succeeded by others, and so on during the continuance of this ordinance.*

12. And be it further enacted, that the commissioners elected in manner aforesaid, shall go out of office at the end of the second year from the said first general election, and in place of such commissioners so going out of office, a like number of other commissioners, to be elected as hereinafter provided, shall come into office, and remain in office during the next ensuing two years, and at the expiration of such last mentioned term of two years, shall, in like manner, go out of office, and be succeeded by other commissioners for a like term of two years, and so on for ever; provided always, that any of such out-going commissioners shall be re-eligible, and may be re-elected, and in such case continue to act and remain in office,—any thing herein contained to the contrary notwithstanding.

*Meeting for the election of such incoming commissioners.*

13. And be it further enacted, that on the Monday immediately preceding the day on which any such term of two years shall expire, a meeting shall be holden for the election of commissioners for the two years next succeeding; and such election shall proceed in such manner as is hereinbefore by the 11th section of this Ordinance provided for the election of the first commissioners under this Ordinance.

*Upon commissioners becoming disqualified, dying, or resigning, vacancy to be filled up.*

14. And be it further enacted, that any commissioner who shall cease to possess any of the qualifications in the 10th section required for the eligibility of commissioners, or shall cease to possess his due property qualification within the district for which he was elected; or shall absent himself therefrom for any period exceeding six months; or shall become bankrupt or insolvent; or shall become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease; or who shall accept any office of emolument under the appointment of the commissioners relating to the municipality, shall *ipso facto* vacate his office:—and in case any person so elected a commissioner shall die; or become disqualified in manner aforesaid; or shall resign or refuse to accept the office of commissioner; or shall become bankrupt or insolvent; or in case of any casual vacancy happening in any manner whatever in such office, notice shall be forthwith given by the acting commissioners to the resident magistrate for Cape Town, or officer acting as such as aforesaid, who shall forthwith in the manner hereinbefore directed by this Ordinance, call a meeting of such resident



householders as aforesaid, resident within such district, for the purpose of filling up such vacancy or vacancies; and the person then elected shall serve until the next general election of commissioners.

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*First meeting of the first board of commissioners to be convened by the resident magistrate, and proceedings thereat.*

15. And be it further enacted, that as soon as the whole number of commissioners shall have been elected as aforesaid, the resident magistrate of Cape Town, or officer for the time being acting as such, shall issue summonses to the commissioners, so elected, informing the said commissioners, individually, that the first meeting of the said commissioners, will be held at the town house in Cape Town, at a certain day and hour to be named in said summonses, at which meeting shall be chosen by a majority of votes, one commissioner, to be called and styled the chairman of the board of commissioners, and one other commissioner, to be called and styled the vice-chairman thereof, to hold their said offices respectively, until the next general election of commissioners as hereinbefore provided, and in case of the death, resignation, or other incapacity of such chairman or vice-chairman, then a successor shall be forthwith chosen in manner aforesaid, to serve till the then next general election as aforesaid.

*When commissioners to meet, and how such meeting may be called;—four to be a quorum.*

16. And be it further enacted, that such commissioners shall meet at other times, and so often as at any previous meeting shall be determined upon; and it shall be at all times competent for the chairman, or any three commissioners, by writing under his or their hands, to summon, upon at least forty-eight hours' notice, the commissioners, for any special purpose therein named; and that at all meetings of such commissioners, a number of commissioners not less than four shall constitute a quorum for transacting business; and whenever at any meeting of the said commissioners, whether general or special, the votes of the said commissioners are equally divided, the chairman, vice-chairman, or other commissioner presiding, shall have a casting vote.

*Who to preside at all meetings of commissioners.*

17. And be it further enacted, that at all meetings whatsoever of the said commissioners, whether stated or special, the chairman so elected as aforesaid shall of right preside; and in case of the absence of the said chairman, then the vice-chairman so elected as aforesaid; and in case both the chairman and the vice-chairman shall be absent, then any commissioner thereto specially appointed and deputed in writing by the said chairman;

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and in case no commissioner shall be so deputed by the said chairman, then any commissioner who shall be so deputed by the vice-chairman; and no meeting of the said commissioners shall as such, have any power or authority to transact business, except a meeting over which some one of the four persons in that behalf already mentioned in their order as aforesaid shall preside.

*Regulations to be framed by commissioners, and the matters respecting which the same shall be framed, and how the said regulations shall be adopted.*

18. And be it further enacted, that the board of commissioners so first chosen in manner aforesaid, shall, forthwith, proceed to frame and agree upon such municipal regulations as the said commissioners may deem expedient, for regulating the time and place of its own meetings, and the order to be observed thereat, and also the duties to be performed by the wardmasters hereinafter mentioned, and for the classification and valuation of the immoveable property within the said municipality, and for the supply and distribution of water, and for the erection and preservation of wells, watercourses, bridges, dams or sluices, or other matters connected with the due supply of water, and for making, repairing, cleaving, and lighting the streets, and for regulating weights and measures, and the assize of bread, and for preventing and abating public nuisances in the said municipality, and for all and every other purposes of general utility within the said municipality, which shall appear to require such regulations, and shall, without delay, publish such regulations in the *Government Gazette*, in the English and Dutch languages, and shall submit the same, after the the expiration of at least one week from the day of such publication, to a meeting of the wardmasters hereinafter mentioned, to be called in the manner hereinafter provided, upon a notice of at least seven days from the day of the first complete publication of the said regulations in the *Government Gazette*; and at such meeting of wardmasters the said commissioners shall have a right to speak, but not to vote, and the question shall be put by the chairman chosen to preside over such meeting, on each and every clause of the said regulations submitted by the said commissioners *seriatim*, and afterwards on the whole of the regulations jointly, and a majority of votes shall decide whether such clause, or the whole of the regulations conjointly, as the case may be, shall or shall not be adopted: provided always, that the said meeting of wardmasters shall not be competent of themselves to alter or amend any of the said regulations, but the said meeting shall and may, should it so think proper, return the said regulations to the said commissioners, with such suggestions, in writing, as it may deem desirable; and if such commissioners shall not think it fitting and expedient to concur in all the said suggestions, then the said commissioners shall, upon public notice of not less than seven

days from the transmission of the said suggestions by the said wardmasters to the said commissioners, call a meeting of the resident householders of the municipality, to be held at the town hall, to which meeting the said regulations shall be submitted, and the said meeting shall have full power and authority to determine upon the point or points of difference between the said commissioners and the said wardmasters, in whatever way the said meeting shall, by a majority of its members, decide; provided, however, that in case of a division at such meeting of householders, no commissioner or wardmaster shall be competent to vote thereat; and provided also, that such meeting of householders shall not be entitled to add to or alter the said regulations, or to do more than determine the point or points in controversy between the commissioners and the wardmasters, in favour of the one party or of the other party.

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*Regulations how to be made valid.*

19. And be it further enacted, that in case such regulations shall be adopted at any meeting of wardmasters, as aforesaid, or of householders as aforesaid, the same shall forthwith be transmitted, by the said commissioners, to the governor of the Colony for the time being, for the approval, amendment, or disallowance thereof, of the said governor, by and with the advice of the executive council; and in case such regulations shall be approved, notice of such approval shall be given by proclamation to be made in that behalf; and the said regulations shall be published in the *Government Gazette*, and shall thereupon become as legal, valid, and effectual, as if the same had been inserted herein: and in the event of the said regulations being amended by the said governor, by and with the advice of the executive council, the regulations so amended shall forthwith be transmitted to the said commissioners, who shall forthwith, upon a notice of not less than seven days, call a meeting of the wardmasters of the municipality, who shall, by a majority of votes, decide whether the said regulations, so amended, shall be adopted or not; and if the regulations be adopted, the said commissioners shall forthwith communicate such adoption to the said governor, who shall forthwith give notice thereof by proclamation, and cause the same to be published in the *Government Gazette*, and upon such publication, the same shall become as legal, valid, and effectual, as if the same had been inserted herein; provided always, that nothing contained in such regulations, or in any of the regulations mentioned in the 20th and 22d sections of this ordinance, shall be repugnant to, or inconsistent with, the true intent and meaning of the provisions of this ordinance.

*In case regulations disallowed, commissioners to frame new ones.*

20. And be it further enacted, that if the said regulations, when submitted to the said governor, shall be disallowed by him, by



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and with the advice of the executive council, or if such regulations, after being amended by the governor, by and with the advice of the executive council, shall not be adopted by the majority of votes at the meeting of the wardmasters of the municipality aforesaid, then and in every such case the commissioners shall again *de novo* frame other municipal regulations,—and the like proceedings shall be taken for having the same submitted to, and adopted by, and when amended by the governor, decided upon by the wardmasters of the municipality, and submitted to, and approved or amended by the said governor, by and with the advice of the executive council, as by the provisions of the 19th section of this ordinance are prescribed to be taken as to the municipal regulations therein mentioned, and so on until such regulations as have been adopted by the wardmasters in manner aforesaid, shall have been approved of by the said governor in manner aforesaid, or when amended by him in such manner, shall have been adopted by such wardmasters in manner aforesaid.

*Stated meetings of commissioners, and who may appear thereat.*

21. And be it further enacted, that the commissioners for the time being shall, after the municipal regulations shall have been once duly approved and established as aforesaid, meet at least once in every month, and at such other times, if any, as may be specified in the municipal regulations for the time being; and at every such meeting it shall be lawful for any person to appear and prefer any complaint which he may think proper to make concerning any matter or thing done by force, or in pursuance or under pretence of the provisions of this ordinance, of the said municipal regulations, or concerning any thing which shall have been left undone contrary to any of the said provisions.

*Mode in which regulations may be added to, amended, and repealed.*

22. And be it further enacted, that at any time within one month after the expiration of each and every term of ten months, from the publication of any such regulations as aforesaid, and at any other time, when such commissioners shall have obtained the consent of the said governor so to do, it shall be lawful for the said commissioners, assembled at any duly constituted meeting of the same, to add to, amend, or repeal the existing regulations, or any of them, or any part of any of them,—provided that the said additions, amendments, or repealing provisions, as the case may be, shall be published in the *Government Gazette*, and submitted to a meeting of wardmasters, and in all respects dealt with and decided upon in the same manner as is hereinbefore directed; and provided, with respect to the original rules and regulations in the said sections referred to and provided for, precisely as if the provisions of the said sections were here again word for word repeated.

*Every first meeting of every successive board of commissioners to begin by electing chairman and vice-chairman.*

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23. And be enacted, that it shall be the duty of every first meeting of each successive board of commissioners, to be elected biennially as aforesaid, to commence their duties by choosing in the manner hereinbefore specified with respect to the first board of commissioners, a chairman and vice-chairman, to act as such for the term of two years then ensuing.

*Meeting for election of wardmasters.*

24. And whereas it is expedient to make provision for the election of wardmasters, be it further enacted, that so soon as the whole number of the commissioners for the said municipality shall have been chosen in manner aforesaid, the resident magistrate of Cape Town, or other officer acting as such, shall, and he is hereby required by a notice of not less than two weeks, to call a meeting for each respective ward, or such resident householders as aforesaid, residing within each of the said wards respectively, to be holden for the election and choice of two wardmasters for each of the said wards respectively, and such wardmasters shall be elected in like manner as hereinbefore provided by the 11th section for the election of commissioners, and the resident householders present at any such meeting shall choose their own chairman, and such chairman shall, within twenty-four hours after such election, make a return thereof to the said commissioners, duly signed by him, and the said election shall be duly published by the said commissioners, or by their order, in the *Government Gazette*, for general information.

*Who may be elected wardmasters.*

25. And be it further enacted, that any such resident householder as aforesaid, residing within any of the said wards respectively, shall be eligible to be elected a wardmaster for the ward within which he shall at the time reside, and shall be proposed at the meeting of resident householders for such ward, called as aforesaid, by some person duly qualified to vote thereat, and shall be seconded by some other person in like manner qualified.

*Wardmasters to go out of office, and be succeeded by others.*

26. And be it further enacted, that every person who shall be elected a wardmaster as aforesaid, shall go out of office at the end of one year from the general election of wardmasters, in case all the wardmasters of the different wards shall be elected in one day; but in case all the said wardmasters shall not be elected in one day, then at the end of one year from the day on which the two or more wardmasters last elected shall have been chosen, and in place of such wardmasters so going out of

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office, a like number of other wardmasters for the said wards respectively, to be elected as hereinbefore provided, shall come into office, and remain in office, for the following year, and at the expiration thereof shall, in like manner, go out of office, and be succeeded by other wardmasters, for a like term of one year, and so on for ever: provided, that any of such out-going wardmasters shall be re-eligible, and may be re-elected for any such ward, and in such case continue to act and remain in office,—any thing herein contained to the contrary notwithstanding.

*Time of Meeting for the election of two wardmasters.*

27. And be it further enacted, that on the Monday immediately preceding the day on which any such term of one year shall expire, a meeting of resident householders of each respective ward shall be held for such ward, for the election of two wardmasters for every such ward, for the next succeeding year, and such election shall proceed in such manner as is hereinbefore by the 24th and 25th sections provided for the election of the first wardmasters under this ordinance.

*Wardmasters becoming ineligible, dying, or resigning, others to be elected.*

28. And be it further enacted, that any wardmaster who shall cease to be such resident householder as aforesaid; or shall cease to reside within the ward for which he shall have been elected; or shall absent himself therefrom for any period exceeding three months; or shall become bankrupt or insolvent; or shall become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease;—or who shall accept any office of emolument under the appointment of commissioners, relating to the municipality, shall *ipso facto* vacate his office; and that, in case any person so elected a wardmaster shall die; or become disqualified by bankruptcy or insolvency; or shall cease to reside within the ward for which he shall have been elected; or shall have absented himself therefrom in manner aforesaid; or shall resign or refuse to accept the office of wardmaster; or in case of any casual vacancy happening in any manner whatever in such office, notice shall be forthwith given by the acting wardmaster, or by the commissioners, to the resident magistrate of Cape Town, or officer as such, who shall forthwith, in the manner hereinbefore directed by this ordinance, call a meeting of such resident householders as aforesaid, resident within such ward, for the purpose of filling up such vacancy or vacancies, and the person then elected shall serve until the next general election of wardmasters, unless he shall become disqualified in manner aforesaid.



*How any irregularity in the holding of meetings for the election of commissioners or wardmasters, respectively, is to be remedied.*

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29. And be it further enacted, that in case it shall happen that by reason of any failure or neglect, or any other cause whatever, any meeting for the election of a commissioner, or of a wardmaster, or of wardmasters, as the case may be, shall not be duly and regularly holden, or that at any such meeting the commissioner or the wardmaster or wardmasters for the purpose of choosing whom such meeting was convened, shall not be duly elected, then, and in every such case, the resident magistrate of Cape Town, or officer for the time being acting as such, shall, as soon as any such event shall have been duly notified to him, in writing, by any three or more resident householders of any district or ward, as the case may be, in which such event shall have occurred, by a notice of not less than seven or more than fourteen days, call a meeting of the householders of such district or ward, for the purpose of electing such commissioner or such wardmaster or wardmasters, as the case may be, in the same manner as is hereinbefore directed with respect to the first election of commissioners and wardmasters under the provisions of this ordinance; and the commissioner or wardmaster or wardmasters, who shall have been in office next before the time when such event shall have occurred, shall remain and continue in office until his or their successor or successors shall in the manner herein provided have been duly elected, upon which the former shall, provided their regular term of service shall have expired, forthwith go out of office, and be succeeded by the person or persons newly chosen.

*No person to be both a commissioner and a wardmaster.*

30. And be it further enacted, that it shall not be lawful for any person to hold the office of commissioner and of wardmaster at the same time: provided, however, that should it happen at any time that any person being a wardmaster, shall be elected to be a commissioner, or being a commissioner, shall be elected to be a wardmaster, such person shall, within eight days thereafter, give notice to the resident magistrate, or officer at the time acting as such, whether he will continue to discharge the office he shall at the time hold, or whether he will resign the same and accept the office he shall have been in such manner last elected to, and, not giving such notice, he shall be taken *ipso facto* to have vacated the office to which he shall have been last elected; and the resident magistrate, or officer at the time acting as such, shall, and he is hereby required, upon the notice of any one commissioner, to call a meeting of resident householders of the district, or of the respective wards, as the case may be, and in the manner hereinbefore provided, for the purpose of filling up such vacancy or vacancies.

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*Persons disqualified from being elected commissioners and wardmasters.*

31. And be it further enacted, that no person, being an officer in Her Majesty's army or navy, in full pay or in active employment as such officer, or being employed in the civil service of Her Majesty's government, or persons in holy orders, shall be eligible to be elected as a commissioner for the municipality, or as a wardmaster for any ward;—and any such person being a commissioner or wardmaster, who shall be employed, or accept any employment, under Her Majesty's military, naval, or civil government, shall be considered *ipso facto* to have vacated such appointment of commissioner or wardmaster; and the magistrate, or officer at the time acting as such, shall, and he is hereby directed, on notice thereof being given to him by the commissioners, and they, or any one of them, are hereby required to give such notice forthwith, in the manner hereinbefore directed, to call a meeting of resident householders of the district, or of such respective ward, as the case may be, for the purpose of filling up such vacancy.

*Commissioners and wardmasters to receive no salary.*

32. And be it further enacted, that no person elected and appointed under and by virtue of this Ordinance, a commissioner or wardmaster, for the purpose of carrying into effect the provisions thereof, shall have or receive any salary, or shall exact, take, or accept, any fee or reward whatsoever, for or on account of any thing done, or to be done, by him, by virtue of this Ordinance, or on any account whatsoever relative to this Ordinance.

*Commissioners to frame new lists.*

33. And be it further enacted, that the commissioners for the time being shall, every second year, three months previous to the next ensuing election of commissioners, draw out a list of all such persons as they shall find to be eligible to be elected commissioners; and the said commissioners shall, every year three months previous to the next ensuing election of wardmasters, draw out a list of all such persons as they shall then find to be eligible, and qualified to vote as resident householders under the provisions of this ordinance; which lists respectively having been signed by them, shall, within two months before such election as aforesaid, be delivered to the resident magistrate for Cape Town, who is hereby empowered and required to act therein, in like manner as he is required by the 8th section of this ordinance, relative to the lists therein provided to be made by the committee therein mentioned; and the notice of twenty-four hours, in the said 8th section specified, and therein directed to be given to the committee in the said section mentioned, shall

be given to the commissioners for the time being, by whom the lists in the present section mentioned shall have been prepared and given in.

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*Mode in which such new lists may be amended.*

34. And be it further enacted, that the lists hereinbefore in the 8th section to this ordinance particularly mentioned, shall remain as aforesaid with the said magistrate, until new lists, as in the preceding section directed, shall have been delivered in, posted as before mentioned, at the town hall, and, if imperfect or inaccurate, amended, after which such new lists shall supersede the former lists, and become in turn the sole and conclusive evidence of municipal qualification, until other lists shall again be framed, and so on for ever, as long as this ordinance shall remain in force and operation; provided always, that at any time during which any of the amended lists aforesaid, whether those first completed, or any other, shall, in their finished and amended shape, remain in the custody of the said magistrate, it shall be lawful for any person, whether a person having been before the completion of the same, or a person first becoming after the completion of the same, fit and eligible to be elected a commissioner, or qualified as a resident householder, as the case may be, upon giving forty-eight hours' notice of his intention to the commissioners, to claim before the said magistrate, that his name be put upon the commissioners' list, or the householders' list, as the case may be; and to claim, upon the same notice to be given to any party whose qualification may be impeached, that the name of such party may be expunged from either of the said lists respectively, as having been or become disqualified. And the said magistrate shall, in every such case, hear and determine as in the 8th section specified; but no person whose name shall have been put upon either of the said lists, after the same shall have been finished and completed in manner aforesaid, shall be eligible to be elected a commissioner or wardmaster, or to vote as a householder, as the case may be, within the space of one month from the period when his name shall, under the circumstances aforesaid, have been placed upon the one or the other of the said lists respectively.

*Treasurer to be appointed.*

35. And be it further enacted, that it shall be lawful for the said commissioners for the time being, (acting in pursuance of any municipal regulations to that effect,) and they are hereby authorised and required to appoint during pleasure, such treasurer and other officers as shall be specified in any such regulations, and to remove and displace the same, and to hold their office and meetings, and transact their business, in the town house in Cape Town.



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*Treasurer to give security, otherwise appointment void.*

36. And be it further enacted, that it shall be lawful for the said commissioners, and they are hereby required, to take security from the treasurer to be appointed by virtue of this ordinance, for the due execution of his office of treasurer, according to the true intent and meaning of this ordinance, which security shall be to the full amount of the sum likely to be in the hands of the said treasurer at any one time. And in case any such treasurer shall neglect or refuse, for the space of three weeks next after his appointment, to give or offer such security to the satisfaction of the said commissioners, then the appointment of every such person so neglecting or refusing shall be null and void to all intents and purposes; and the said commissioners shall within three weeks then next ensuing assemble and appoint some other fit and proper person to the office of treasurer, instead of the person so refusing or neglecting as aforesaid; and shall so assemble and appoint from time to time until security shall be given to their satisfaction as aforesaid.

*Treasurer to account to commissioners ;—proceedings in case of refusal or neglect.*

37. And be it further enacted, that every such treasurer and other officer appointed by virtue of this ordinance, shall, under his hand, and at such time or times, and in such manner as the said commissioners shall direct, deliver to the said commissioners, or such person as they shall appoint, true and perfect accounts, in writing, of all matters and things committed to his charge by virtue of this ordinance, and also of all monies which shall have been by such officer received by virtue or for the purposes of this ordinance, and of how much thereof shall have been expended or disbursed, and for what purposes, together with proper vouchers for such payments; and that every such officer shall pay all such monies as shall remain due from him, to the treasurer for the time being, or to such person or persons as the said commissioners shall appoint to receive the same; and if any such treasurer, officer, or other person, shall refuse or neglect to make and render such account, or refuse to deliver up the vouchers relating to the same, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said commissioners, or to such person or persons as they shall appoint to receive the same, within three days after being thereunto required by the said commissioners, by notice in writing under their hands, given to or left at the last or usual place of abode of such officer, all books, papers, and writings, in his custody or power, relating to the execution of this ordinance, or to give satisfaction to the said commissioners, or such other person or persons as aforesaid, respecting the same, then and in every such case, upon complaint made by the said commissioners, or by

such person or persons as they shall appoint for that purpose, of any such refusal or wilful neglect as aforesaid, to the supreme court, or any judge thereof, the said court or judge shall, if they or he shall see fit, summon the officer so refusing or neglecting to appear before him; and if it shall appear to the said court or judge, upon bearing of the case, that any monies remain due from such officer, such court or judge may, by decree of the said court, or warrant under the hand of the said judge, cause such money to be levied by distress and sale of the goods and chattels of such officer, and if no goods and chattels of such officer shall be found sufficient to answer and satisfy the said money, and the charges of distraining and selling the said goods and chattels, or if it shall appear to such court or judge that such officer had refused or wilfully neglected to render and give such account, or to produce the vouchers relating thereto, or that any books, papers, or writings, relating to the execution of this ordinance, remained in the hands or in the custody or power of such officer, and he refused or wilfully neglected to deliver or give satisfaction respecting the same as aforesaid, then, and in every such case, it shall be lawful for such court or judge to commit such offender to the common gaol or house of correction within the municipality, there to remain without bail until he shall have given a true and perfect account as aforesaid, or until he shall have paid such monies as aforesaid, and until he shall have delivered up such books, papers, and writings, or given satisfaction in respect thereof, to the said commissioners, or to such other person or persons as aforesaid, or until such other or further time as the said court or judge shall direct: provided that nothing herein contained shall prevent such treasurer, officer, or other person, from being tried, and if found guilty, convicted and sentenced according to law, for any crime or offence which he may have committed relative to any matter or thing intrusted to him under the provisions of this ordinance; and provided further, that nothing herein contained shall prevent the commissioners for the said municipality, from bringing their action for the recovery of any sum or sums due by such treasurer, officer, or other person, to the said municipality.

*No proceedings against treasurer to exonerate his sureties.*

38. And be it further enacted, that no prosecution or commitment under the provisions of this ordinance, of any treasurer or other officer, or person, to be appointed under the power of this ordinance, shall acquit and discharge any surety or security that shall or may have been taken by, or given to, the commissioners, for the due and faithful execution of his or their office, or the payment of the monies received or to be received by him or them respectively.

*Book of proceedings of commissioners to be kept.*

39. And be further enacted, that all acts, orders, and pro-

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ceedings of the said commissioners at any of their meetings, shall be entered in a book to be kept by them for that purpose, and shall be signed by the chairman, or person acting as such, and two of the commissioners then present : and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings; and such books shall and may be produced and read as *prima facie* evidence of all such acts, orders, and proceedings, upon any appeal or trial, or information, or any proceeding, civil or criminal, and in any court or courts of law or equity whatever.

*Books of accounts to be kept by commissioners, which shall be open to inspection,—penalty on refusal.*

40. And be it further enacted, that the said commissioners shall, and they are hereby required, from time to time, to order and direct a book or books to be provided and kept at the town house, in Cape Town, which shall not under any pretence whatever be taken from thence, except by process of the supreme court, or any judge thereof, or other court, in which shall be entered true and regular accounts of all sums of money received, paid and expended, for or on account of the purposes of this ordinance, and of the several articles, matters, and things, for which such sums of money shall have been disbursed and paid; and such book or books shall at all reasonable times be open to the inspection of the said commissioners, and of every such resident householder as aforesaid, without fee or reward; and the said commissioners and other persons aforesaid, or any of them, shall or may take copies of, or extracts from, the said book or books, without paying for the same; and in case the said commissioners or any of them shall refuse to permit, or shall not permit the said persons aforesaid, to inspect the same, or take copies or extracts as aforesaid, such commissioners or commissioner shall each forfeit and pay any sum of money not exceeding five pounds for each default, to be levied and applied in manner hereinafter provided.

*Annual account to be laid before a meeting of wardmasters, of which a copy shall be deposited with commissioners, and an abstract published in the Government Gazette.*

41. And be it further enacted, that in the month of January, in every year, a true account shall be made in writing, of all monies received and paid by virtue of this ordinance, during the preceding year, ending on the thirty-first day of December, and the same shall be laid before a meeting of wardmasters to be called by the said commissioners as hereinafter authorised, in the first week of February in each and every year; and a copy or duplicate of such account, verified on oath before any justice of the peace, by the said treasurer, and certified by the chairman and two of the said commissioners, shall be deposited with the said commissioners, and shall be open to the inspection of



any resident householder, or any party interested, and an abstract thereof published in the *Government Gazette* for general information, before the first day of March following.

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*Annual estimate of revenue and expenditure to be made and laid before a meeting of wardmasters, which may alter, by a certain majority, one portion of such estimate.*

42. And be it further enacted, that the said commissioners shall also, in the month of January in every year, draw out an estimate of the probable revenue and expenditure for the next ensuing year, showing the several taxes or rates to be levied or assessed during the same, which estimate shall be signed by the treasurer, and countersigned by the chairman and two commissioners, and an attested copy thereof deposited in their office, at the town house, and shall there be open to the inspection of any resident householder, or any party interested, and an abstract thereof published in the *Government Gazette*, for general information, before the fifteenth day of the said month of January; and the said estimate shall be laid before a meeting of the wardmasters, to be called by the said commissioners as hereinafter provided; and that part of the estimate which relates to the probable expenditure may be altered by the said wardmasters, at such meeting, provided a majority of them, not less than two thirds of the whole number of wardmasters, shall concur in such alteration, but not otherwise.

*Meeting of commissioners and wardmasters jointly to assess rates.*

43. And be it further enacted, that after the said abstracts in the two preceding sections of this ordinance mentioned, shall have been published as therein directed, during fourteen days, the said commissioners shall, directly after the expiration of the same, call a meeting of wardmasters, as hereafter provided, upon seven days' notice to be given in manner aforesaid, at which meeting the commissioners shall be entitled to sit, deliberate, and vote, for the purpose of assessing any such rate or rates on the immoveable property situate within the the municipality, and to endure for such period, not exceeding twelve months, as the majority of persons present and entitled to vote at such meeting shall deem necessary for all or any of the purposes of this ordinance: provided, that any person, who feels himself aggrieved by any such assessment, may cause the same to be brought before the supreme court, which shall review the said assessment, and shall, if necessary, rectify the same so far as it regards the person bringing the same under review.

*Minutes of proceedings of commissioners and wardmasters to be in English.*

44. And be it further enacted, that all minutes of the proceedings of the boards of commissioners and wardmasters re-

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spectively, for the time being, and all books, writings, accounts, and records thereof, shall be made and kept in the English language.

*Commissioners empowered to call meetings of the wardmasters.*

45. And be it further enacted, that the board of commissioners for the time being shall be empowered, for the purposes in any of the preceding sections mentioned, or for any other purpose which, to the said commissioners shall seem a fit and proper one, to call by a public notice of not less than forty-eight hours, a meeting of the wardmasters of the municipality, to be held in the town hall, and to submit to such meeting of wardmasters, all such questions, matters and things as the said commissioners shall deem expedient.

*Commissioners to appoint collectors.*

46. And be it further enacted, that after the rates to be levied by virtue of this ordinance shall have been assessed in manner aforesaid, it shall and may be lawful for the said commissioners to appoint collectors, for the purpose of collecting the amounts due and payable in manner aforesaid, and the said collectors are hereby authorised to demand and receive the amounts so to be collected, and the said collectors shall be furnished with an order under the hands of the said commissioners, or any two of them, directing the said collectors to demand and receive the amount mentioned in the said order: and such collectors shall give security to the said commissioners for the due execution of their office, to such amount as they shall deem sufficient: Provided however, that nothing herein contained shall disqualify any of the wardmasters from being appointed such collector within the limits of their respective wards.

*Rates how to be levied and sued for.*

47. And be it further enacted, that if the amount of any rate which under the provisions of this ordinance shall have been assessed on any immoveable property within the said municipality, shall not, on demand made by the person duly authorised to collect the same, be paid by the occupier of such property, or by the proprietor thereof, it shall be lawful for the said commissioners, and they are hereby empowered, to sue, either the said occupier or the said proprietor, separately, or both of them in one and the same action, each for the whole, before any competent court, and to obtain the judgment and process of such court, for the recovery of the same, reserving to such occupier and proprietor respectively, such relief against each other as they may be lawfully entitled to: provided always, that no person shall, as occupier of any such immoveable property, be liable to pay or to be sued for any rate which had been assessed on the same, in respect of any period, or which had become due and

payable at any time, before such person entered on the occupation of such property. And that every person who, as occupier of any such property, shall at any time have become liable to pay any rate which may have been assessed thereon, shall continue to be liable, and may be sued in manner aforesaid, for the same, notwithstanding that such person shall have ceased to occupy such property. And provided also, that the payment of any rate assessed on and due in respect of any such immovable property as aforesaid, by either the proprietor or occupier of the same, shall free and discharge the other from all claim and demand for the payment of such rate, as far as regards the municipality aforesaid.

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*Sums received by collectors to be deposited in the bank.*

48. And be it further enacted, that the said collectors to whom any such order as aforesaid shall be issued, shall deposit in the government discount or other bank in Cape Town, by the direction of the commissioners, on account and in the name of the "Treasurer of the Municipality of Cape Town," all such sums as they shall have received during any day, on the day the same shall have been received, or on the next succeeding day on which the said bank shall be open for receiving deposits, provided such sums shall amount to or exceed five pounds, and in case such sums so received shall be under five pounds, then the said collectors shall deposit the said sums on the day on which such sums together shall amount to the sum of five pounds, or at farthest, on the next succeeding day on which the said bank shall be open as aforesaid, and at the end of every week shall render an account thereof to the treasurer, with vouchers for the same; and in case any collector shall neglect or refuse to deposit any sum or sums so received by him as aforesaid, within such time as aforesaid, such collector shall forfeit all commission for collecting the same, and shall pay, by way of penalty, ten per cent. upon the amount he shall have so failed to deposit; and no such sum or sums of money shall be drawn out of such bank, but upon cheques, signed by the treasurer, and countersigned by two commissioners; provided however, that nothing herein contained shall extend, or be construed to extend, to release the sureties for the said collectors from their liability as such sureties.

*Auditors to be elected by wardmasters.*

49. And be it further enacted, that upon the first Monday in December in each and every year, a meeting of wardmasters of the municipality shall be held in the town hall, for the purpose of electing, either out of their own number or otherwise, two householders not being commissioners, to act as auditors of the municipal accounts, and it shall be the duty of the said auditors to examine the said accounts previously to their being laid before



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the meeting of wardmasters already mentioned, and to vouch the accuracy of the same.

*Commissioners to pay annually to the colonial treasury towards the expense of the police, whatever sum the legislative council shall determine.*

50. And whereas by a new organization of the police in Cape Town, to be shortly arranged and established under the superintendence of the colonial government, the necessity for watch-house keepers, serjeants of the night, watchmen and patrols, to be provided by the municipality, will be altogether superseded;—and whereas it is fit and proper that the municipality should re-imburse to the said colonial government, a fair and reasonable proportion of the cost and charge of such police force: Be it therefore enacted, that the commissioners for the time being shall annually pay and hand over to the treasurer and accountant general of this colony, or to the officer acting as such, whatever sum shall from time to time be fixed and ascertained by the vote of the legislative council of this colony, as a just and proper proportion of the whole expense of the said police force in Cape Town, which the said municipality should pay over and make good.

*Watch-houses to become the property of government.*

51. And be it further enacted, that all watch-houses now or lately used as such, shall go to and become the property of the colonial government for the time being, to be employed for the reception of the said police force, or for such other purpose or purposes as the said government shall from time to time determine and think fit.

*Commissioners to keep up fire-engines.*

52. And be it further enacted, that it shall be lawful for the said commissioners acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, to keep up fire engines, with pipes and other utensils proper for the same, for the use of the municipality, and to provide a proper place or places for the keeping of the said fire engines, and to place the same under the care of some proper person or persons, and to make him or them such allowance for his or their trouble as may be thought reasonable, and to make such further rules and regulations thereon as they shall think necessary.

*Commissioners to put up lamp-posts and lamps.*

53. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, to cause such lamp-irons or lamp-posts, or other posts, to be

put or fixed upon or against the walls or palisadoes of any houses, tenements, buildings, or inclosures, (doing as little damage as may be practicable thereto,) or to be put up or erected in such other manner, within all or any of the said roads, streets, and places within the limits of the said municipality, as shall be deemed proper; and also to cause such number of lamps of such sizes and sorts to be provided and affixed and put upon such lamp-irons and lamp-posts as shall be necessary for lightening all or any of such roads, streets, and places, and cause the same to be lighted with oil or otherwise, during such hours as shall be necessary, and also, from time to time, to make such regulations thereon as they shall find necessary.

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*Commissioners to lay down water-pipes, to make regulations touching the supply and preservation of the water.*

54. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, to provide and to carry, and lay, any pipe or pipes, for the conveyance of water to which the inhabitants of the municipality shall at any time have or acquire a common right, from any reservoir, river, or spring, to any house, building, or other place, within the limits of the municipality, and also, from time to time, to make such regulations touching the same, and the quantity of water to be supplied to the inhabitants, and the time or times at which such supply is to be received, as shall be proper and necessary; and also touching the most expedient mode of preventing any waste of drink-water within the said municipality.

*Inhabitants of Green-Point to be supplied with water from water-works of Cape Town.*

55. And be it further enacted and declared, that the inhabitants of the municipality of Green Point shall have the right, and shall be entitled to be furnished and provided from the waterworks now existing, or which may hereafter be made, erected, or provided, for supplying water to the inhabitants of Cape Town, in whomsoever the property, management, or administration of any such waterworks shall for the time being be vested, with a supply of water, in the same proportions, on the same terms, at the same rates, and under the same regulations, in, on, at, and under which, the inhabitants of Cape Town shall for the time being have, or be entitled to have, water supplied to them,—and that in consideration of such water rates to be paid by the inhabitants of the municipality of Green Point as aforesaid, the community or communities, person or persons, in whom the property, management, or administration of such waterworks as aforesaid, shall for the time be vested, shall, and they are hereby required, to provide, keep in good order, and

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repair, a main pipe extending from the said waterworks, as far as the main pipe by which water is now supplied to the inhabitants of green point and sea point at present extends,—and also the four fountains or pumps connected with the said main pipe now existing, or as many of them as from time to time shall be necessary for the due supply of water to the inhabitants of the municipality of green point.

*Commissioners to make bridges, &c., and to keep the same in repair.*

56. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered to cause to be made, provided, erected, and built, cover in, or remove such bridges, sluices, dams, reservoirs, water-courses, drains, and ditches, as now are or shall be deemed necessary, within the municipality, and shall cause the same to be kept at all times in good and sufficient repair; and from time to time to make such rules and regulations thereon as they shall find necessary.

*Commissioners to repair old streets, and where expedient, to make new ones.*

57. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered and required, to cause the public streets, roads, and places, within the limits of the municipality, to be at all times kept in good and sufficient repair; and they are hereby empowered, as far as the funds of the municipality shall permit, to cause such new streets and roads to be made within the limits aforesaid as may be legally made and shall be necessary for the public use, and to be kept at all times in like good and sufficient repair, and from time to time to make such rules and regulations thereon as to them shall seem fit.

*Commissioners to establish markets.*

58. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, as occasion may require, to keep up and establish within the limits of the said municipality, a market or markets for the sale of cattle, meat, fish, poultry, vegetables, fruit, and the like, and to cause suitable houses or buildings to be built and erected for the convenience of persons attending, holding, and superintending, such market or markets, and to cause the same to be kept in good and sufficient repair, and also to frame and make such regulations, and impose such fines, as they shall think necessary for ensuring order and cleanliness within the said market or markets.



*To examine weights and measures, assize bread, and look to the wholesomeness of bread, meat, and fish.*

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59. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, to make necessary rules for the due and proper care of weights, measures, and the quality and assize of bread, and the quality of meat; and they are hereby empowered, at all times, to visit and enter into the shops or places where bread, meat, or fish is sold, for the purpose of assizing the bread, and examining the weights and measures, and also of taking proper care that the bread, meat, or fish therein sold is good and wholesome.

*To regulate pasture-lands, erect pounds, and make pound-regulations.*

60. And be it further enacted, that it shall be lawful for the said commissioners, acting in pursuance of any such regulations as aforesaid, and they are hereby empowered, from time to time, if necessary and expedient, to make rules for the due and proper care of the common pasture lands of the municipality, and therein to specify and regulate the quantity of cattle which each inhabitant shall be allowed to keep and depasture on the said common lands, and of what kinds; and also to impose fines on any person contravening such regulations, and to establish and erect one or more pound or pounds within the said municipality, and to appoint one or more pound-masters, and to make all such pound regulations as shall be necessary or expedient: Provided always, that the said commissioners shall not be authorised or permitted to dispose of, alienate, build upon, inclose, or cultivate, any such common pasture lands, nor suffer any other person to build upon, inclose or cultivate the same, and any such alienation by sale, gift, or otherwise, except made in the manner and by the authority hereinafter in the 66th section mentioned, shall be, and is hereby declared to be, null and void.

*Persons injuring lamps, lamp-irons, &c., to be punished.*

61. And be it further enacted, that if any person shall wilfully break, throw down, spoil, or damage any lamp, lamp-iron, lamp-post, pole, rail, chain, or other furniture thereof, or wilfully extinguish the light of any lamp, or shall break, spoil, or damage any building, the property in which is by the provisions of this ordinance vested in the said commissioners, or shall wilfully break or damage any public water-course, drain or ditch, within the limits of the said municipality, it shall be lawful for any person who shall see the offence committed, to apprehend, and also for any other person or persons to assist in apprehending, the offender or offenders, and by the authority of this ordinance, and without any warrant, to deliver him, her, or them, to any constable, who is to keep him, her, or them, in safe custody,

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and with all reasonable dispatch to convey him, her, or them, before the resident magistrate for Cape Town, or any justice of the peace having jurisdiction; and if the party accused shall be convicted of any such offence, by such resident magistrate, he, she, or they, shall forfeit severally any sum not exceeding two pounds for every such offence, and shall also make full satisfaction for the damage which shall have been done thereby, and one moiety of such forfeiture shall be paid to the person or persons apprehending such offender, and the other moiety shall be applied for the purposes of this ordinance; and in case any such offender shall not, on conviction, pay the said forfeiture and satisfaction, such magistrate is hereby required to commit him, her, or them, to the common gaol, or house of correction, there to be kept to hard labor, if such magistrate shall so order for any time not exceeding three calendar months, unless such forfeiture and satisfaction shall be sooner paid: provided that nothing herein contained shall prevent the commissioners from bringing any civil action for damages against such offender before the supreme court, should they consider the amount of such damages to exceed the jurisdiction of the said magistrate.

*Proceedings where injury shall have been done through carelessness or accident.*

62. And be it further enacted, that if any person shall carelessly or accidentally do any such damage or injury as hereinbefore is mentioned, and shall not, upon demand, make satisfaction to the said commissioners for the damage or injury so done, it shall and may be lawful for the said resident magistrate, and he is hereby required, upon the application or complaint of the commissioners, or any two of them, to summon the party complained of, and upon hearing the parties upon both sides, or on the non-appearance of the party complained of, to examine the matter of complaint, and award such sum of money, by way of satisfaction, to the said commissioners, for such damage, as such resident magistrate shall think reasonable; and in case of neglect or refusal forthwith to pay such money, then the same, and all expenses attending the recovery thereof, may be levied and recovered as any penalty or forfeiture is by this ordinance directed to be levied and recovered in other cases: provided, however, that nothing herein contained shall prevent the commissioners from bringing any civil action for damages, against such offender, before the supreme court, should they consider the amount of such damages to exceed the jurisdiction of the said magistrate.

*Commissioners to abate nuisances.*

63. And be it further enacted, that it shall be lawful for the said commissioners, and they are hereby authorized and required to remove, put down, and abate all nuisances of a public

fiature within the said municipality, or which may tend either to injure the health or in any way affect the safety or the rights of the inhabitants at large, and, if need be, to proceed at law before the resident magistrate, or supreme court, against any person or persons so committing any such nuisance as for the abatement thereof, and aforesaid damages; and further that the said commissioners shall, and they are hereby required, to cause all streets, watercourses, drains, roads, and places within the said municipality, to be kept clean and free from dirt, filth, or rubbish: and any person convicted upon the complaint made by the commissioners to the resident magistrate, of throwing dirt, filth, or rubbish, into any such street, road, watercourse, drain, or place, as aforesaid, shall forfeit and pay any sum of money not exceeding five pounds; and in case of neglect or refusal forthwith to pay such money, then the same, and any expenses attending the recovery thereof, may be levied and recovered as any other penalty or forfeiture is by this ordinance directed to be levied and recovered in other cases.

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*Commissioners may enter into contracts.*

64. And be it further enacted, that it shall and may be lawful for the said commissioners from time to time to enter into any contract with any person or company whatsoever, for any work to be done and performed, or for any materials to be furnished to and for the said commissioners, by virtue and for the purposes of this ordinance, which contract shall specify the work to be done and the price to be paid for the same, and the time when the work shall be completed, and the penalty to be suffered in case of non-performance thereof, and shall be signed by the chairman, and by two or more of the said commissioners, and also by the person or persons contracting; which contract, or a copy thereof, shall be entered in a book to be kept for that purpose; but no contract above the value of fifty pounds shall be entered into, unless fourteen days' notice be previously given in one or more of the public newspapers published in this colony, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered and presented to the said commissioners at a certain time and place in such notice to be mentioned: Provided always, that if the said commissioners shall be of opinion that it will not be advantageous to contract with the person offering the lowest price, it shall be lawful for the said commissioners to contract with such other person or persons, as they shall think proper; and such person or company so contracting, shall give security for the due performance thereof to the satisfaction of the commissioners: provided however, that no commissioner shall be allowed, either directly or indirectly, to become a contractor,



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or to tender for any contract, either in his name, or in the name of, or jointly with, any other person, on pain of forfeiture of all his share and interest in such contract for the benefit of the municipality, and shall also be considered to have vacated his office of commissioner, *ipso facto*, and be ineligible to be elected at any future period to serve as a commissioner.

*Commissioners, with the consent of wardmasters may purchase or hire houses, &c.*

65. And be it further enacted, that the said commissioners may, and they are hereby authorised and empowered, to treat with the owner or owners, and occupier or occupiers, of any houses or buildings, lands, and grounds, for the purposes of this ordinance, as to the purchase or hire of the same, for such sum of money, or rent, as to them shall appear reasonable, and which purchase money, or rent, shall be respectively paid out of the monies to arise by virtue of this ordinance; provided always, that the said commissioners shall neither purchase nor rent any such premises as aforesaid, without the consent first obtained of a meeting of wardmasters, to be called by the said commissioners in manner aforesaid.

*Property formerly under the administration of the burgher senate to be vested in commissioners.*

66. And be it further enacted, that the property hereafter mentioned, and situate within the municipality, to wit, the town house,—the town market,—the butchers' shambles,—the granary buildings,—the fish market,—the waterworks and the buildings belonging thereto, together with all the waste ground or land situate within the municipality, together with all the stone quarries therein situate, and all right, title, and interest in the same, and which was before the first day of January, 1828, vested in or committed to the administration of the late Burgher Senate, and which, by Ordinance No. 34, was afterwards vested in trustees, shall be and the same are hereby vested in the said commissioners, to be administered, and the revenue thereof employed, and made use of, for the benefit of the municipality, and for the purpose of this ordinance; provided that the said commissioners shall not be authorised or permitted to sell, or otherwise alienate the said buildings or lands, without having first obtained the consent of the governor for the time being to such sale or alienation, and without having, after obtaining such consent, published such resolution to sell, during three successive weeks, in the *Government Gazette*. Provided also, that nothing herein contained shall affect, or be construed to affect, any right or title which Her Majesty's board of ordinance has, or may have, in the immoveable property hereinbefore mentioned, or any part thereof: and provided also, that the said granary shall remain in the occupation of the govern-

ment, until some other suitable building be provided and made applicable to the purposes to which the said granary is now applied.

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*Other property which shall be vested in the commissioners.*

67. And be it further enacted, that the property of and in all the lamps, lamp-irons, lamp-posts; bridges, sluices, dams, market-houses, pipes, posts, chains, pales, and rails, in, about, or belonging to the said streets and places within the limits of the said municipality, and of and in all iron, timber, stone, bricks, and other materia's, and furniture and things of, in, and belonging thereto, (except when the same shall be otherwise regulated by the contract with the said commissioners,) also all the moveable property, carts, horses, and things which now are under the administration of the superintendent of police, and of the superintendent of waterworks, and respectively employed by them for the use of Cape Town and its vicinity, inventories whereof shall be made and delivered by the said superintendent of police and the superintendent of waterworks, to the commissioners, within three weeks after their election, shall be, and the same is hereby vested in the said commissioners, and may be used, sold, and disposed of by them from time to time, as they shall deem necessary; and the money arising from such sale shall be applied towards the purposes of this ordinance; and the said commissioners are hereby authorised and empowered to bring, or cause to be brought, any civil or criminal action, in manner as hereinbefore is provided, against any person or persons who shall steal, break, or otherwise damage, any of the buildings or other things, the property which is hereby vested in the said commissioners, subject, however, to the provisions of the ordinances Nos. 40 and 73, or of any law or ordinance which may hereafter be created or then be in force in that behalf; and in all such actions it shall be, and be deemed and taken to be, sufficient to state generally, that the article or thing for or on account of which such action shall be brought, is the property of the commissioners, without particularly stating or specifying the name or names of all or any of the commissioners.

*Offences against this ordinance to be prosecuted in the court of the resident magistrate of Cape Town.*

68. And be it further enacted, that all offences committed in contravention of this ordinance, or of any municipal regulation, may lawfully be prosecuted in the court of the resident magistrate for Cape Town; and if any person shall be duly convicted of any such offence, and shall not pay or satisfy the amount of fine imposed upon him, it shall be lawful for the said resident magistrate to sentence such offender to any period of imprisonment not exceeding three months: and the amount of all such fines, when recovered, shall be paid to the treasurer of the municipality for the time being, for the purposes of this ordinance.

Ordinance  
No. 1, 1840.

Municipality  
of Cape Town.

*Ordinance not to affect private rights.*

69. And be it further enacted, that nothing herein contained shall extend, or be construed to extend, to injure or impair the rights or property which any person or persons may have in, to, or in respect of, any of the matters aforesaid; and in every case in which any such commissioners as aforesaid, shall commit any act under and by virtue of this ordinance, or of any municipal regulation, by which the right of property of any person or persons is injured or impaired, such commissioners shall be liable to make compensation to such person or persons for the same: provided always, that nothing herein contained shall be deemed, construed, or taken to extend, to render the said commissioners personally, or any of their goods and chattels (other than such as may be invested in them in pursuance of this ordinance) liable to the payment of any sum of money as or by way of compensation or satisfaction, in the cases in which such compensation or satisfaction is hereby directed to be made by the said commissioners.

*Commissioners may sue and be sued.*

70. And be it further enacted, that in any action or suit which shall or may be brought for the recovery of any penalty or sum of money due or payable by virtue of this ordinance, or for or in respect of any other matter or thing relating to this ordinance, by or against the said commissioners, it shall and may be lawful for the said commissioners to sue or be sued by the style or description of "the commissioners for the municipality of Cape Town:" provided always, that every such commissioner may and shall (if not otherwise interested or objectionable) be a good examinable and competent witness in every action or suit, either for or against the said commissioners, and all the affidavits of debt or service which may be necessary or expedient to be made preparatory to, or in the prosecution or defence of, any such action, suit, or proceeding, shall and may be lawfully made by any such commissioner; and provided also, that the said commissioners shall always be reimbursed and paid out of the monies to arise by virtue of this ordinance, all such costs, charges, and expenses, as they shall be put to, or become chargeable with, by reason of bringing or defending such action or suit, and shall not be personally answerable or liable for the payment of the same, or any part thereof, unless such action or suit shall arise in consequence of their or any of their own wilful neglect or default.

*Costs to be paid out of the funds of the municipality.*

71. And be it further enacted, that all the necessary costs, charges, and expenses attending the carrying the provisions of this ordinance and of the municipal regulations into effect, shall be paid out of the money authorised to be received by the commissioners, under the provisions of this ordinance.



*Inhabitants competent witnesses.*

72. And be it further enacted, that no inhabitant of the said municipality shall, on that account, be deemed an incompetent witness in any action, suit, or information, complaint, appeal, prosecution, or proceedings, to be had, made, prosecuted, or carried on, under the authority of this ordinance, or the municipal regulations of the said municipality.

Ordinance  
No. 1, 1840.

Municipality  
of Cape Town

*Ordinance to be in force till January 1861.*

73. And be it further enacted, that this ordinance shall continue in force until the first day of January, one thousand eight hundred and sixty-one.

*God save the Queen!*

Given at the Cape of Good Hope, this 3d day of March 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,

Acting Clerk of the Legislative Council.

*Government Advertisement.*

THE managers of the chapel at *Klippe Drift*, in the division of Swellendam, having requested that the name of "*Napier*" may be given to the village which is about to be built at the said place, and his excellency the governor having given his sanction thereto, that village will hereafter bear the name of *Napier* accordingly.

Govt. Advt.  
March 5, 1840.

Napier  
Village.

Colonial Office, Cape of Good Hope, 5th March 1840.

By His Excellency's Command,

(Signed) John Bell,

Secretary to Government.

*Government Advertisement.*

THE committee for erecting a chapel in the district called Wagonmaker's Valley, having requested his excellency the governor to name the village now building at that place, his excellency has been pleased, with their concurrence, to call it "*Wellington*," by which name it will hereafter be known.

Govt. Advt.  
March 5, 1840.

Wellington  
Village.

Colonial Office, Cape of Good Hope, 26th March 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

Ordinance  
No. 2, 1840

No. 2, 1840.—Signed, George Napier.

Executive  
Police.

*Ordinance for improving the Executive Police of Cape Town and the district thereof,—for defining the powers and duties of the said police in cert in cases, and for promoting the peace and good order of the said town.*<sup>(1)</sup>

*Preamble,—Ordinance No. 7, 1839, and No. 48, repealed.*

WHEREAS the systems of police and nightly watch heretofore existing in Cape Town and the district thereof,—have, from the want of due connexion and co-operation with each other, and from other causes,—proved insufficient for the purposes for which they were intended; and whereas it is expedient to substitute for the said systems of police and nightly watch, one united body of police for day and night, under a new and more effective organization;—and whereas it is also expedient that certain matters and things connected with the powers and duties of the said last mentioned body of police, and the peace and good order of the town aforesaid, should be herein provided for or declared: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the taking effect of this ordinance, the ordinance No. 7, 1839, entitled “an ordinance for reviving certain sections of the ordinance No. 48, entitled “an ordinance of his honor the lieutenant-governor in council, for establishing an executive police in Cape Town, and the district thereof, and for consolidating and amending the laws and regulations relating thereto,” and continuing the same until the regulations for the municipal board for Cape Town and the vicinity thereof shall have been duly framed, adopted, approved, and carried into effect, according to the provisions of the ordinance No. 3, 1839, entitled “an ordinance enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, for the creation of a municipal board for Cape Town and the vicinity thereof,” shall be repealed, together with the said ordinance No. 48,—save and except so far as the forty-seventh section of the said ordinance No. 48, repeals any former laws, rules, orders, or regulations,—and both the said ordinances are hereby declared to be, from and after the time aforesaid, repealed accordingly.

*Judge and superintendent of police, and deputy superintendent, to be appointed by the governor.*

2. And be it enacted, that it shall and may be lawful for the governor of this colony for the time being, to nominate and

<sup>(1)</sup> Sanctioned and allowed by the Queen, *vide* Proclamation 20th July 1843.

appoint, from time to time, as occasion may require, some fit and proper person to be the head of the police for Cape Town and the district thereof, and the port of Table Bay, who shall be called and styled "judge and superintendent of the police of Cape Town," and also to nominate and appoint some other fit and proper person to rank next to and assist the said judge and superintendent, as such head of the police, which other person, so to be appointed, shall be called and styled the "deputy superintendent of the police of Cape Town," which said persons shall, before entering upon the duties of their respective offices, take the oath of allegiance, and also the oath of office following :

Ordinance  
No. 2, 1840

Executive  
Police.

*Oath to be taken by those officers.*

"I, A. B., do solemnly swear, that I will truly and faithfully, to the best of my skill and ability, perform the duties belonging to the office of judge and superintendent (or deputy superintendent, as the case may be,) of police, without fear, favor, or affection—So HELP ME GOD!"

*Judge and superintendent to discharge certain duties.*

3. And be it enacted, that the said judge and superintendent of police of Cape Town shall discharge all the duties, and possess all the powers and jurisdiction imposed or conferred by any law or ordinance now in force in this colony, (save and except the aforesaid ordinances No. 48 and No. 7, 1839,) upon the functionary called in any such law or ordinance the judge and superintendent of police of Cape Town, or the superintendent of police for Cape Town and the district thereof, and the port of Table Bay.

*Deputy superintendent to discharge certain duties.*

4. And be it enacted, that the said deputy superintendent of police of Cape Town shall discharge all the duties, and possess all the powers imposed or conferred by any law or ordinance now in force in this colony, (save and except the aforesaid ordinances No. 48 and No. 7, 1839,) upon the officer called in any such law or ordinance the deputy superintendent of police, or the deputy superintendent of police of Cape Town, or the deputy superintendent of police of Cape Town and the district thereof, and the port of Table Bay, and shall also discharge such duties as shall, by the rules and regulations hereinafter mentioned, be allotted and appointed for such deputy superintendent to perform.

*Inspector to be appointed by governor.*

5. And be it enacted, that it shall and may be lawful for the governor of this colony, from time to time, as a vacancy may occur, or occasion may require, to nominate and appoint some fit and proper person who shall be called and styled the inspector of police of Cape Town, to be under the control and command of the judge and superintendent of police aforesaid, for the time



Ordinance  
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Police

being, and to discharge such duties as shall, in the rules and regulations hereafter mentioned, be allotted and appointed for such inspector to perform.

*Judge and superintendent, with the approval of the governor, to appoint police constables.*

6. And be it enacted, That it shall and may be lawful for the said judge and superintendent for the time being, subject to the approval of the governor of this colony for the time being, to nominate and appoint, from time to time, a sufficient number of fit and able men, who shall be sworn in by the said judge and superintendent, to act as constables for preserving the peace, preventing the commission of crimes, and apprehending offenders, when crimes have been committed, and the men so sworn shall, within the Cape district, have all such powers, authorities, privileges, and advantages, and perform all such duties, and incur all such responsibilities, as any constable duly appointed now has, or hereafter may have, within his constablewick, or assigned district, by virtue of any law or ordinance existing or to exist in this colony, and shall obey all such lawful commands touching the manner in which they shall conduct themselves in the execution of their office, as they may from time to time receive from their lawful superiors, as the latter shall be constituted, named and specified in the rules and regulations to be hereafter framed; but the stated and ordinary duties of the members of the said police force shall be confined within the limits of the municipality of Cape Town, and they shall only proceed and act beyond the said limits, when engaged in the pursuit of an offender flying from justice, or when the exigency of some particular occasion shall induce the chief officer of police, for the time being, to order one or more members of the said force to repair to, and perform duty at, some place, other than the said municipality, within the said district.

*Judge and superintendent, with the approval of the governor, to frame regulations for the police force.—Judge and superintendent may dismiss constables.*

7. And be it enacted, that the said judge and superintendent for the time being, subject to the approval of the governor of this colony for the time being, shall and may from time to time, frame such rules and regulations as the said judge and superintendent shall deem expedient, relative to the general government and management of the men, so as aforesaid to be appointed members of the police force under this ordinance, the classification, rank, and particular duty of the several members, their distribution and inspection, the description of arms, accoutrements, and other necessities to be furnished to them, and which of them shall be provided with horses for the performance of their duty, the peculiar books and forms to be respectively kept

and used at the police station, and all such other rules and regulations relative to the said police force, as the said judge and superintendent shall from time to time deem expedient for preventing neglect of duty or abuse of authority, and for rendering such force as efficient as possible for the performance of its duties: And the said judge and superintendent may, at any time, suspend or dismiss from his employment any man belonging to the said police force, (except the deputy superintendent and the inspector of police, who may be suspended or dismissed only by the governor of this colony for the time being) whom he shall think negligent or remiss in the discharge of his duty, or otherwise unfit for the same; and when any man shall be dismissed or cease to belong to the said police force, all powers vested in him as a constable by virtue of this ordinance shall immediately cease and determine.

Ordinance  
No. 2, 1840.

Executive  
Police.

*Constables guilty of infringing such rules, to be subject to a penalty of £10.—Judge and superintendent empowered to impose such penalty.*

8. And be it enacted, that any constable, belonging to the said force, save and except the inspector, (who is not, either here or elsewhere in this ordinance comprehended under the term constable,) who shall be guilty of any neglect or violation of duty in his office of constable, as the same shall be defined by the rules and regulations to be hereafter framed, shall be liable to a penalty not exceeding ten pounds, which penalty may be deducted from any salary then due to such offender, or such offender may, in the discretion of the judge and superintendent of police, who is hereby authorised and empowered to enforce, in a summary manner, all penalties to be incurred under this section, as well as sections 9 and 10 next succeeding, be imprisoned for any term not exceeding one month; but no such penalty or punishment shall be held or taken to exempt such constable from any other penalty or punishment which may, by any other law, be affixed to any illegal act or acts, of which he may be guilty.

*No constables to resign, except with permission, or two months' notice under a penalty of £10, or one month's imprisonment.*

9. And be it enacted, that no constable belonging to the said police force shall be at liberty to resign his situation, or withdraw himself from the duties thereof, unless expressly permitted so to do by the judge and superintendent of police, in writing, or unless he shall give to such judge and superintendent two full months' notice of his intention; and every constable who shall so resign or withdraw himself without such leave or notice, shall be liable to forfeit all arrears of pay then due to him, or to a penalty not exceeding ten pounds, or to imprisonment for any term not exceeding one month, as to the said judge and superintendent shall seem best and most expedient.

Ordinance  
No. 2, 1840.

Executive  
Police.

*Any constable dismissed, not delivering, or wilfully injuring, his clothing, &c. may be imprisoned for two months.*

10. And be it enacted, that every constable belonging to the said police force, who shall be dismissed from, or shall cease to hold and exercise, his office, and who shall not forthwith deliver over to the said judge and superintendent, all the clothing, accoutrements, appointments and other necessities which may have been supplied to him for the execution of his duty, or who shall wilfully or maliciously injure any of the said articles, so as to render the same valueless or of less value, before delivering the same over, shall be liable to imprisonment, for any time not exceeding two months; and it shall be lawful for the said judge and superintendent, to issue his warrant to search for, and seize for the use of the said police force, all the clothing, accoutrements, appointments, and other necessities which shall not be so delivered over, wherever the same may be found.

*Any person having in possession any such clothing, &c. and not satisfactorily accounting for such possession, to be subject to one month's imprisonment.*

11. And be it enacted, that every person not being a member of the said police force, who shall have in his possession, any article being part of the clothing, accoutrements, or appointments supplied to such member, and who shall not be able satisfactorily to account for his possession thereof, shall be liable to a penalty not exceeding ten pounds, or, in the discretion of the magistrate before whom he shall be convicted, to imprisonment for any term not exceeding one month.

*Public-House-Keepers harbouring a Constable, liable to £10, or one month's imprisonment.*

12. And be it enacted, that if any owner or keeper of any house, shop, store, or other place for the sale of any liquors, whether spirituous or otherwise, shall harbour or entertain any constable belonging to the said police force, or permit such constable to remain in his house, shop, store, or other place as aforesaid, for any part of the time during which to his knowledge such constable should be on duty, every such owner or keeper as aforesaid shall, for every such offence, be liable to forfeit and pay any sum not exceeding ten pounds, and in default of payment thereof, shall be liable to imprisonment for any term not exceeding one month.

*Any person assaulting or resisting a constable, liable to £10 penalty or one month's imprisonment.*

13. And be it enacted, that every person who shall assault or resist any person belonging to the police force, in the execution of his duty, or who shall aid or incite any person so to assault or resist, shall for every such offence be liable to a penalty not exceeding ten pounds, or the offender may, in the discretion of



the magistrate before whom he shall be convicted, be imprisoned for any term not exceeding one month.

Ordinance  
No. 2, 1840.

Executive  
Police.

*Police force to suppress tumults, &c.*

14. And be it enacted, that the said judge and superintendent, and the police under his command, shall, as much as in them lies, suppress all tumults, riots, affrays or breaches of the peace, within the limits of the said municipality, and enforce every law or ordinance, made, or to be made, for the due observance of the Lord's day; for the regular and decent conduct of houses licensed to retail wines or other liquors, for preventing the opening of such houses on improper days, and at improper hours, for the punishment of drunkenness, and, generally, for every purpose connected with the good order and tranquillity of the municipality of Cape Town.

*Certain persons empowered to demand entrance into certain houses.*

15. And be it enacted, that the judge and superintendent, deputy superintendent, and inspector of police, and any constable who shall, by the said judge and superintendent, be specially nominated and appointed for the purpose, but not any other constable, shall and may, from time to time, and at all times, as often as they shall have reasonable and probable ground for suspecting that any retail dealer, licensed under the ordinances Nos. 93 and 94, or either of them, is selling, at unlawful or prohibited days or hours, any of the liquors in the said ordinances mentioned, demand admittance into the premises of such dealer for the purpose of examining the same. And if such dealer shall wilfully and intentionally refuse to admit such judge and superintendent, deputy superintendent, inspector, or constable, such judge and superintendent, deputy superintendent, inspector, or constable, declaring his official character, or if such dealer shall wilfully and intentionally make any unnecessary delay in admitting the said parties, such dealer shall be liable for such offence to any penalty not exceeding five pounds, or in default of payment thereof, shall be liable to imprisonment, for any term not exceeding one month.

*The same persons empowered to enter certain other houses.*

16. And be it enacted, that it shall be lawful for any of the persons in the last section mentioned, and empowered for the purpose therein stated, to require admittance into any lodging or other house, or into any apartments in any house within the said municipality, not being a licensed house, in case there shall appear, either from the fact that seamen or others are seen coming out therefrom in a state of intoxication, or from any other fact of a like nature, or from private information given, just and reasonable ground for believing that spirituous or other liquors are being sold therein, for the purpose of examining the same. And if the

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occupier of any such house or apartment shall wilfully and intentionally refuse to admit such person as aforesaid, (such person as aforesaid duly declaring his official character,) or if such occupier shall wilfully and intentionally make any unnecessary delay in admitting such person as aforesaid, such occupier shall be liable for such offence to any penalty not exceeding five pounds sterling, or, in default of payment thereof, shall be liable to imprisonment for any period not exceeding one month.

*Police constables to abate all nuisances specified in the municipal commissioners' list thereof.—Police empowered to arrest in certain cases.*

17. And whereas under and by virtue of the ordinance No. 1, 1840, intituled "an ordinance for the better regulation of the municipal board of Cape Town, and the vicinity thereof," certain municipal regulations have been, or will be, duly framed, approved of, and established, in which will be specified, amongst other things, certain acts and omissions, which, when done or made in the streets, thoroughfares, or public places of the said municipality, shall be deemed and taken to be public nuisances or offences, and shall be punished as such; and whereas a list or catalogue of all such acts and omissions, so being such nuisances or offences, shall from time to time be duly furnished by the municipal commissioners, who are hereby required to furnish the same, to the judge and superintendent of police, for the information of the force under his command: be it enacted, that it shall and may be lawful for the members of the said police force, to prevent, abate and suppress, all such nuisances and offences, and they are hereby empowered to arrest, without warrant, any person whom they shall see in the actual commission of any nuisance, or who shall be charged by any street-keeper or other officer of the said municipality, or any other credible person, with having recently committed any nuisance; provided there shall exist reasonable ground for apprehending that, except by arresting the party so offending within view of the said constable, or so charged as aforesaid, with having offended when not within such view, such party could not be found or made answerable to justice, without delay, trouble, or expense.

*Police to arrest persons who, in thoroughfares, provoke a breach of the peace.*

18. And be it enacted, that it shall be lawful for the judge and superintendent, deputy superintendent, inspector, or any constable, belonging to the said police force, to take into custody, without warrant, any person who shall in any thoroughfare or public place use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or from which a breach of the peace may be justly apprehended; and every such person so offending shall be liable to a penalty not

exceeding forty shillings, and to imprisonment until the same be paid, and may be further called upon, should such a course seem necessary, to find sufficient sureties to keep the peace.

Ordinance  
No. 2, 1810.

Executive  
Police.

*Police may stop persons carrying goods under suspicious circumstances, and bring them to the police station.*

19. And be it enacted, that it shall and may be lawful for any member belonging to the said police force, to stop any person or persons whom such member shall find, at any time between sun-set and sun-rise, carrying or transporting any bundle or parcel, or generally any goods of any sort or description whatsoever within the said municipality, and to interrogate such person or persons, and if he or they shall not account satisfactorily for the possession of the goods or articles so being carried or transported, or if there shall be reasonable grounds for suspecting that such goods or articles have been criminally procured, then it shall be further lawful for such member of the said police force, to conduct the said goods and articles, and the person or persons so carrying or transporting the same, to the police station, and to detain such person or persons in custody until the then next sitting of the judge and superintendent of police, who shall inquire into the circumstances, and make such determination as shall to him seem fit and proper.

*Police may conduct diseased persons to hospital.*

20. And be it enacted, that it shall and may be lawful for any member of the said police force, to remove any outcast or destitute person found in any of the streets or public places of the said municipality, labouring, or supposed to labour, under any infectious or contagious disease, and to conduct such person to such hospital as the judge and superintendent shall direct, and such person may be lawfully detained in hospital until the medical officer in charge thereof shall see fit to order his or her discharge.

*Gaming in the streets to be punished.—Penalty £1, or 14 days' imprisonment.*

21. And be it enacted, that any person or persons who shall, within any of the streets, thoroughfares, or public places of the said municipality, play at cards, or with dice, or with any table or instrument of gaming, or who shall be found betting, or engaged in any real or pretended game of chance, may be arrested by any member of the said police force, who shall be a witness of the same, and shall, upon conviction, forfeit any sum not exceeding twenty shilling, and, in default of payment thereof, shall be committed to prison, for any period not exceeding fourteen days; and in the case of boys, apparently under the age of eighteen years, may be ordered to receive any number of lashes not exceeding twelve.



Ordinance  
No. 2, 1840.

Executive  
Police.

*Persons buying cargo or stores from seamen, to be liable to a penalty of £ 10, or one month's imprisonment.*

22. And be it enacted, that every person who shall, within the municipality of Cape Town, knowingly purchase or take in exchange from any seaman, or other person not being the owner or master of any vessel, anything belonging to any vessel lying in the port of Table Bay, or any part of the cargo of any such vessel, or any stores or articles belonging to the same, shall be deemed to be guilty of an offence, and shall be liable to a penalty not exceeding ten pounds, or, in the discretion of the court before which he shall be convicted, to imprisonment for any term not exceeding one month.

*Persons taking boats from ships in Table Bay, liable to one month's imprisonment.*

23. And be it enacted, that if any seaman belonging to any vessel lying in the said port, or if any other person, shall take away or remove from any such vessel, any boat attached or belonging to the same, without having obtained permission so to do, from the master or other officer in charge of the said vessel, such seaman or other person shall, although such taking or removal may not have been with a theftuous intent, be deemed and taken to be guilty of an offence, and shall be liable to imprisonment for any term not exceeding one month.

*Persons offending against this Ordinance or list of nuisances, to make compensation to any person thereby aggrieved.— Not to alter 61st, 62d, and 63d sections of Ordinance No. 1, 1840.*

24. And be it enacted, that every person who, by committing any offence herein, or in the list and catalogue herein-before mentioned, made punishable or forbidden, shall have caused any hurt or damage to any person or property, and who shall not, upon demand, make amends for such hurt or damage to the satisfaction of the person aggrieved, shall, upon conviction, pay such sum, not exceeding ten pounds, as shall appear to the court before which he shall be convicted, to be reasonable amends to the person aggrieved, besides any penalty to which the party offending may be liable for the offence; provided always, that if the person aggrieved, shall be the only witness who gives proof of the offence, the sum ordered as amends, instead of being paid to such person, shall be paid and applied in the same manner as the penalty: Provided, that nothing in this section contained shall be construed to alter the 61st, 62d, or 63d sections of Ordinance No. 1, 1840, entitled "an ordinance for the better regulation of the municipal board for Cape Town, and the vicinity thereof," or any of the said sections.

*Fines, &c., under this Ordinance, to be paid to the colonial treasurer.*

25. And be it enacted, that all fines, penalties, and for-

feitures, to be levied for, or on account of, offences specified herein, shall be paid and handed over to the treasurer of this colony for the time being, and shall be by him duly entered in a separate account under the head of "monies received under Ordinance No. 2, 1840."

Ordinance  
No. 2, 1840.

Executive  
Police.

*Police fund to be formed, and how.*

26 And be it enacted, that such portion of the monies in the last section mentioned, as shall arise from the whole of the fines, forfeitures, or penalties imposed for misconduct upon the members of the said police force, by the rules and regulations herein-before mentioned, and all the monies to arise from fines imposed for drunkenness, and for assaults committed upon police constables, and all monies to arise from the sale of worn or cast clothing supplied to the police, shall, together with all interest from time to time arising from, or accumulating upon the same, form and constitute a perpetual fund, to be termed the police fund, and shall be applied from time to time, by the governor of this colony for the time being, in the payment of rewards to such members of the said police force, as shall by extraordinary services appear to have merited the same, and in the payment also of such superannuation or retiring allowances, and allowances to the widows and children of deceased constables, as under the special circumstances of each case the said governor shall think proper to confer; provided however, that nothing herein contained shall be construed to entitle any member of the said police force to claim, absolutely, any superannuation or retiring allowance whatsoever, or prevent him from being unconditionally dismissed.<sup>(1)</sup>

*Account of all fines, &c, to be annually laid before the legislative council.*

27. And be it enacted, that an account of all the fines, penalties, and forfeitures, received as aforesaid, by the treasurer of this colony, distinguishing those hereinbefore devoted to the formation of the police fund, from the others, shall be annually laid before the legislative council of this colony, at the same time with the annual estimates, for the information of the said council; and such disposition and appropriation of the monies, which shall appear by such account to have been received by the said treasurer, other than the monies forming and constituting the police fund, shall be made and determined upon as the said council shall think fit: Provided, however, that nothing herein contained shall be construed so as to deprive any person, whether a constable or not, of any share in any of the fines, penalties, and forfeitures aforesaid, to which, by any other law or ordinance, should such other law or ordinance exist, such person might, as

(1) *Vide Ordinance No. 1, 1844, infra.*

Ordinance  
No. 2, 1840.

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informer, or otherwise, rightfully and legally lay claim, except such person being a constable, shall have consented and agreed that the same may be applied to the augmentation of the said police fund.

*Offences against this Ordinance and the list of nuisances, where to be prosecuted.*

28. And be it enacted, that all persons charged with any of the offences mentioned in this ordinance, or in the list or catalogue of nuisances or offences herein-before mentioned, may be proceeded against, either in the court of the resident magistrate for Cape Town, or in the police court of Cape Town, as the case may be, reference being had however to the extent of the fine, penalty, forfeiture, or punishment sought to be imposed, and to the extent of the jurisdiction of the said courts respectively, in all cases in which the latter of the said courts is not specially empowered and directed by this ordinance, to impose some given fine or punishment, exceeding its ordinary jurisdiction :—any thing contained in the 6th section of the Ordinance No. 1, 1840, in anywise to the contrary notwithstanding.

*Chief officer of police may discharge prisoners under certain circumstances, on recognizance.*

29. And be it enacted, that whenever any person charged with any offence, not being of a grave or serious character, shall be, without warrant, in the custody of any constable of the said police force, during any time when the courts of the resident magistrate and the judge and superintendent of police are respectively shut, it shall be lawful for the chief officer in charge of the police station, if he shall deem it prudent, to discharge such person from actual custody, taking, however, but without fee or reward, the bond, obligation, or recognizance of such person, with or without sureties, conditioned for the appearance of the person thereby bound, before the said resident magistrate or the said judge and superintendent, as may be thought expedient, at his next sitting, the time and place of which shall be specified in the said recognizance; and the said chief officer shall enter in a book to be kept for the purpose, the name, residence, and occupation of the party, and of his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the court at which the party was bound to appear, at the next ensuing sitting of the same.

*Coolies how to be appointed.*

30. And be it enacted, that every person desirous of plying for hire as a coolie, shall, upon being approved of by the judge and superintendent of police, register his name and place of



abode at the police office, and shall thereupon receive a badge, which he shall wear firmly sewed to his coat or jacket, on the left breast; and any person who shall so ply without such registration, or without a badge, so sewed as aforesaid, shall forfeit the sum of ten shillings sterling, for every offence; and for such registration and badge, each coolie shall pay the sum of two shillings; and every coolie, on application at the police office, shall receive a printed card of the rates of hire, signed by the judge and superintendent of police, which he shall at all times carry with him, and show, on demand, to any person employing him; and if he shall refuse so to do, he shall forfeit the sum of ten shillings sterling; and for every such card required, each coolie shall pay sixpence.

*Person pretending to be a registered coolie, or coolie lending his badge, subject to a penalty of twenty shillings*

31. And be it enacted, that any person not being duly registered as aforesaid, who shall wear a badge, or represent himself to be a coolie duly registered, shall forfeit a sum not exceeding twenty shillings, for every offence; and any coolie who shall be duly convicted of lending his badge to be worn by any other person, shall forfeit a sum not exceeding twenty shillings, for every offence.

*Judge and superintendent may deprive a coolie of his badge.*

32. And be it enacted, that the judge and superintendent of police shall have the power of depriving of his badge any coolie who shall be found guilty of dishonest or improper conduct, upon complaint laid before the judge and superintendent of police.

*Governor may appoint persons to fix, from time to time, the rate of coolie-hire, &c.*

33. And be it enacted, that it shall be lawful for the governor of this colony for the time being, to nominate and appoint such a number of fit and proper persons as he shall deem expedient, of whom the judge and superintendent of police shall be always one, to fix a table of rates for coolie-hire, and a scale of the weights to be carried for the same, and to publish the same in the *Government Gazette*, and to cause the same to be posted at the town house of the municipality of Cape Town, and at such other places as may appear desirable; and it shall be further lawful for the persons so nominated and appointed, or for such other persons as may be appointed from time to time by the said governor in their room and stead, when and so often as such persons shall think it right and fitting to revise the said table of rates, and to make such alterations therein, either by raising or lowering the rates of hire therein mentioned as they shall deem expedient, and every change and alteration so made, shall be

Ordinance  
No. 2, 1840.

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Policy.

forthwith published and posted in the manner herein directed with respect to the first table to be framed under the provisions of this section.

*Coolie refusing to carry his burthen, or demanding more than his fare, liable to a fine of £2, or 14 days' imprisonment.*

34. And be it enacted, that any coolie plying for hire, who shall refuse his services at the rates fixed by the table for the time being, or who shall demand more than according to such table he is entitled to require, or who shall refuse to carry his appointed burthen, shall forfeit for every such offence any sum not exceeding two pounds, and in default of payment thereof, may be imprisoned for any period not exceeding fourteen days.

*Judge and Superintendent to inquire into complaints by coolies, of how payment of their claims.*

35. And be it enacted, that in case of complaint made by any coolie to the judge and superintendent of police, that any person by whom he was employed as such coolie, has refused to pay him his just and legal hire, according to the tariff of rates to be by him produced, it shall be lawful for the said judge and superintendent to summon the person so refusing to pay the same, to appear before him, and whether the said person shall duly appear according to the exigency of the summons or not, to enquire into the case, and if it should be made apparent to his satisfaction, that payment has been refused or delayed without any just or proper reason, he is hereby empowered to order in a summary manner the payment of whatever sum he shall think right and just; and if the said person so unjustly withholding such sum, shall not pay the same when demanded by the messenger or other officer of the police court, then the said judge and superintendent shall issue his warrant for the apprehension of the person so as aforesaid refusing to obey the said order of the said judge and superintendent, and shall commit such person to prison, for any term not exceeding one week; provided however, that if such person shall sooner obey the said order of the said judge and superintendent, he shall be forthwith entitled to his discharge.

*Judge and superintendent to contract for the matters required for this ordinance.*

36. And be it enacted, that the judge and superintendent for the time being shall make all such contracts and disbursements as shall be necessary for purchasing or renting any land, or building, or for erecting, fitting up, furnishing, or repairing any building for a police station, or any other purposes connected with this ordinance, in such manner as the governor of this colony for the time being shall approve of or direct, and of all lands and buildings so to be purchased or rented, and of the

fixtures or furniture thereof, and of all goods and chattels whatsoever, to be from time to time held or purchased for the purposes of this act; the property and lawful possession shall be deemed and taken to be vested in the said judge and superintendent, whom in all legal proceedings whatsoever regarding his public character and office, it shall be sufficient to style "the judge and superintendent of police," without any other or more particular description, and in which judge and superintendent also shall be vested the property and lawful possession of all watch-houses and watchboxes, mentioned in the Ordinance No. 1, 1840, and thereby vested in and made over to, the governor of this colony, and in all the arms, accoutrements, and other necessaries furnished or to be furnished to the members of the said police force, and the said judge and superintendent for the time being may, by the direction of the governor for the time being, sell, assign, or dispose of the whole or any part of any such property as aforesaid.

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*Construction of words in this ordinance.*

37. And be it further enacted, that in the construction of this ordinance, unless there be something in the context repugnant thereto, any word denoting the singular number or the male sex, shall be taken to extend to any number of persons or things, and to both sexes; that the word "month," wherever the same occurs, shall be taken to mean a calendar month; and that any imprisonment, by this ordinance contemplated and authorised, may be either with or without hard labour, as the functionary directing such imprisonment shall adjudge and declare.

38. And be it enacted, that this ordinance shall commence and take effect from the first day of May now next ensuing.

*God save the Queen!*

Given at the Cape of Good Hope, this 6th day of April 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,

Acting Clerk of the Legislative Council.

*Government Advertisement.*

It having been recommended by the medical committee, that, with reference to the prevailing epidemic, the town should be divided into wards, as it was during the late prevalence of measles;—and the undermentioned medical practitioners having offered their services for the benefit of the poor in those wards, as follows; \* \* \*—and it being also urgently recommended that wardmasters be appointed, two or more for each ward, to co-

Govt. Advt.  
April 29, 1840

Small Pox.



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operate with the said medical officers,—his excellency the governor will be happy to avail himself of the services of such inhabitants of the aforesaid wards as may feel inclined to offer them upon this occasion; and, with their assistance, he hopes to be able to carry into effect the several valuable suggestions afforded by the committee, for the general good of the inhabitants.

Colonial Office, Cape Town, 22nd April 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, K.C.B. &c. &c.*

Proclamation  
April 29, 1840

Small Pox.

WHEREAS the prevalence of small pox in Cape Town renders it necessary that peremptory measures should be adopted and enforced, for preventing, if possible, the further spread of the disease; and certain of the inhabitants have now offered their services, as special wardmasters, in co-operating with the medical superintendents of wards, as announced in the government advertisement of the 22d instant, for the purpose of aiding and assisting in the detection of cases, with a view to their proper treatment, and the promotion of vaccination or re-vaccination amongst all classes, and in particular amongst those who have hitherto neglected, or been unwilling to undergo that operation: Now, therefore, I do hereby proclaim and declare—

1st. That from and after the publication hereof, it shall be lawful for the persons appointed, or who may hereafter be appointed, special wardmasters, for the purposes hereinbefore mentioned, and any of them, in their respective wards, and for the medical superintendent of the ward, whether alone, or in conjunction with one or more of the special wardmasters, to demand entrance into any building or habitation, of whatsoever description, situated within such ward, and to enter the same, with or without permission from the occupier or occupiers thereof, and by force, if necessary, by the aid of the police; and to enter any and every room, closet, or other apartment of such building or habitation,—in order to ascertain in the first place—whether there be in such building or habitation any person or persons labouring under the small pox, and not under proper medical treatment for that disease; in which case the special wardmaster and medical superintendent, both being then and there present, shall order such person or persons to be taken to any hospital open for the reception of small pox patients;—and in the second place—to ascertain whether in such building or habitation there be so many inmates crowded together as shall evidently expose them to the ravages of the disease; in

which case, the special wardmasters and the medical superintendents shall report the circumstance to government, in order that it may be decided what further measures shall be taken for the prevention of danger.

Proclamation  
April 20, 1840  
Small Pox.

2d. The respective wardmasters and medical superintendents shall also require from all persons resident in their wards, proof that such persons have been vaccinated; and if any person not having been vaccinated, shall refuse to have the operation performed on him, such person shall, if the wardmasters and superintendents shall deem it necessary, be removed, on their order, to such place as shall be appointed a lazaretto, there to remain under confinement, until the disease shall have passed away, or until he or she shall consent to be vaccinated.

3d. The said wardmasters and superintendents shall also require, if they deem it necessary, that such persons as have already been vaccinated, shall be re-vaccinated: subject to such removal as aforesaid in case of refusal.

4th. In respect to persons who have recovered from the disease, the medical superintendent of the ward shall determine, whether any, and what, measures are necessary; and in such cases the removal of such of them as he shall see fit to direct to be removed, shall, if necessary, be enforced in manner aforesaid. And all persons found in any public road, street, or place, and evidently suffering under, or not sufficiently cured of, small pox, shall be compelled to repair to their residences, or taken to the medical superintendent of the ward in which they are found, to be by him disposed of as may be found necessary.

5th. In each ward, and at the public expense, one cart, or other fitting vehicle, with driver or bearers, and at least two persons to assist the wardmasters and superintendent in their duties, and in enforcing their orders, shall be provided by the wardmasters:—the date of hiring, rate of remuneration, and names of the parties hired, being by them notified to government.

6th. Disinfecting ingredients shall be furnished on orders from the medical superintendents, addressed to the government contractors, Messrs. Kunhardt & Co.; and materials for cleansing and white-washing apartments which have been occupied by small pox patients, will be provided hereafter, at the public expense.

7th. In order to meet pressing claims for immediate relief, one of the wardmasters in each ward shall be entitled to receive a small advance from the treasury, which shall be applied for the above purposes, at the discretion of the wardmasters,—and the wardmasters receiving the advance, shall render account of its disposal to government.

And I do hereby further promise and declare, that I will hold harmless, any person duly appointed by me, or duly employed or authorized by the wardmasters or superintendents, as well as all constables or police officers assisting them, from the con-

Proclamation  
April 29, 1840

Small Pox.

sequences of any act or acts by them done, *bona fide*, in execution of any of the orders herein contained, and where no greater degree of force shall have been used than was absolutely necessary for carrying out the several measures hereinbefore directed to be adopted for the public welfare.

*God save the Queen!*

Given under my hand and the public seal of the settlement at the Cape of Good Hope, this 29th day of April 1840.

(Signed) George Napier.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

### *Government Memorandum.*

Govt. Mem.  
May 5, 1840.

Small Pox.

THE Medical committee having recommended to government, that—

1. The dead in small-pox hospitals be buried in an hour after the demise, if it take place in the day time—or immediately after day-break, if the demise take place during the night time;—

2. That the burials of persons dying of the disease in private houses, take place with all possible despatch ;

3. That the graves prepared for persons so dying of small-pox, be, at least, four feet in depth, and, in case of death from the typhoid or putrid type of the disease, then from five to six feet in depth ;—

4. And further, that a superintendent of burying grounds be appointed for the latter purpose :

His excellency the governor desires to call the attention of the surgeons in charge of hospitals, the sextons, undertakers, or other persons in the charge of, or employed in preparing for interments, the malay priests, (through the superintendent of police,) and generally of all householders and heads of families, to the first three recommendations, by which he trusts the appointment proposed in the fourth will not be required.

The committee further recommend, that all clothes and bedding (linen excepted) which have been used by persons labouring under the disease, be burnt, when no longer required, and that the same be not used for any other purpose, in order that further infection may, if possible, be prevented,

Should the suggestions of the committee, so evidently proper on the present occasion, be disregarded, His Excellency will be forced to the unpleasant necessity of taking measures to enforce their observance.

Colonial Office, Cape Town, 5th May 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.



No. 3, 1840.—Signed, Geo. Napier.

*Ordinance, for applying a sum not exceeding £156,74 12 11  
for the service of the year 1840.(1)*

Ordinance  
No 3, 1840.

Estimates  
18.0

WHEREAS the expenditure required for the service of the government of this colony for the year 1840, has been estimated at the sum of one hundred and fifty-six thousand one hundred and seventy-four pounds, twelve shillings, and eleven pence :

Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that a sum, not exceeding one hundred and fifty-six thousand one hundred and seventy-four pounds, twelve shillings, and eleven pence, be charged upon the revenue of the said colony, for the service of the year 1840, and applied in the manner following, that is to say :—

*For the ordinary expenditure*, a sum not exceeding seventy-nine thousand two hundred and seventy-three pounds and three shillings, in the manner set forth in the two schedules hereunto annexed, marked No. 1, A. and B. respectively.

*For the fixed contingent expenditure*, a sum not exceeding thirty-one thousand three hundred and ninety-four pounds, eight shillings, and sixpence, in the manner set forth in the two schedules hereunto annexed, marked No. 2, C. and D. respectively.

*For the unfixed contingent expenditure*, a sum not exceeding twenty-five thousand seven hundred and ninety-nine pounds, fourteen shillings, and three pence, in the manner set forth in the two schedules hereunto annexed, marked No. 3, E. and F. respectively.

*For the local expenditure in the western division of the colony*, a sum not exceeding four thousand two hundred and ninety-three pounds and six shillings, in the manner set forth in the schedule hereunto annexed, marked No. 4.—And

*For the supplementary expenditure*, a sum not exceeding fifteen thousand four hundred and fourteen pounds, one shilling, and two pence, in the manner set forth in the two schedules hereunto annexed, marked Nos. 5 and 6 respectively.

#### SCHEDULE No. 1.—(A.)

##### *Ordinary Expenditure.—Western Districts.*

For the Governor and Private Secretary,	-	£5300	0	0
Colonial Office,	-	3120	0	0
Council Office,	-	527	0	0
Treasury,	-	1650	0	0
Registry of Deeds,	-	730	0	0
Audit Office,	-	1260	0	0
Stamp Office,	-	351	13	4
Surveyor-General and Civil Engineer's Office,	-	1535	0	0

(1) Sanctioned and allowed by the Queen *vide* Notice 17th August 1843.

Ordinance  
No. 3, 1849.  
Estimates  
1840

Secretary to the Land Board,	-	200	0	0
Customs' Department, including Port Elizabeth,	-	3625	15	0
Port Office, Table Bay,	-	1092	10	0
Tax and Tithes' Department,	-	702	0	0
Government Bank,	-	1625	0	0
Printing Office,	-	385	0	0
Post Offices,	-	951	15	0
Hospital Somerset,	-	663	0	0
Pauper Establishment,	.	155	0	0
Vaccine Institution,	.	50	3	9
Supreme Court,	.	6510	0	0
Master's office,	.	1970	0	0
Attorney-general's office,	.	1390	0	0
Sheriff's office,	.	750	0	0
Police office, town gaol, and house of correction,	.	1401	10	0
Civil establishment, Cape Division,	.	2101	10	0
Stellenbosch ditto,	.	1230	0	0
Worcester ditto,	.	1581	0	0
Swellendam ditto,	.	1615	0	0
Clanwilliam ditto,	.	635	0	0
George ditto,	.	935	0	0
Beaufort ditto,	.	895	0	0
Gaols in the country,	.	2461	10	0
Church establishment,	.	5471	0	4
Free schools (throughout the colony),	.	2500	0	0
Pensions, civil, (ditto)	.	9359	4	2
Ditto on church establishment, (ditto)	.	685	0	0
Ditto, military and Hottentot captains, (ditto)	.	1067	4	10
Colonial agency,	.	200	0	0

Total, £66,680 16 5

#### SCHEDULE NO. 2.—(C.)

##### Fixed Contingencies.—Western Districts.

For the governor, stationery,	.	£100	0	0
Colonial office, petty expenses,	.	£42		
Stationery and bookbinding,	.	150		
Newspapers,	.	35		
Despatch bags, &c.	.	8		
		—	235	0 0
Council office, stationery and bookbinding,	.		15	0 0
Treasury, stationery and bookbinding,	.		70	0 0
Audit office, ditto, ditto,	.		70	0 0
Stamp office, stationery and paper for stamps,	.		150	0 0
Surveyor general's office, stationery,	.	£30		
Travelling expenses,	.	120		
		—	150	0 0
Civil engineer's office, stationery,	.	30		
Allowance for government gardens,	.	200		
Ditto for travelling expenses,	.	50		
Ditto for removal and shipment of stores,	.	120		
		—	400	0 0
Customs, compensation to the sub-collector at Port Elizabeth, stationery, &c.	-		200	0 0
Port office, petty expenses and stationery,	-	£20		
Light-house on green-point,	-	180		
		—	200	0 0
Tax and tithes' office, stationery,	-		35	0 0
Government bank, stationery and petty expenses,	-		117	0 0
Printing office, petty expenses and stationery,	-		124	0 0





Ordinance	Ditto to colonial office,	10'
No. 3, 1840.	Re-building walls, new roofing, &c. of out-buildings of do.	140
	Ordinary repairs to government house,	100
Estimates	Ditto to coach-house and buildings in government house	
1840	stable yard,	100
	Ditto to garden wall and fences,	100
	New roofing the gardener's cottage,	100
	Ordinary repairs to lodge for paupers,	200
	Ditto to public buildings in caledon-square,	200
	Erection of a working shed behind ditto,	50
	Supplying sundry implements for the department,	200
	Supply of 400 lime bags for ditto,	60
	Keep of horse, and repairs of cart and harness of ditto,	30
	Ordinary repairs to buildings on Robben Island,	100
	A new roof to commandant's house, ditto,	150
	Ordinary repairs to light-house, signal stations and port office,	150
	Ditto and alterations of somerset hospital,	200
	Ditto to free school in keerom-street,	25
	Alterations in the general post office,	80
	Erection of a light-house at Mouille-point,	200
	Winding clock in public offices, Cape Town,	8
	Ordinary repairs to prison at Rondebosch,	30
	Ditto to public offices at Simon's Town,	100
	Ditto to searcher's and port office, at Simon's Town,	15
	Ditto to free school at ditto,	25
	Ditto to parsonage at ditto,	25
	Ditto to waterworks at ditto,	20
	Supplying new furniture to the different public offices,	100
	Repairs to old ditto in ditto,	60
	Ditto to ditto in government house,	50
	Casual repairs to the government travelling and circuit wagons,	200
		3398 0 0
	<i>Customs' Department,—Miscellaneous,</i>	100 0 0
	<i>Port Office,—Repairs of boats, &amp;c.</i>	25 0 0
	<i>Printing Office,—Allowance to an apprentice,</i>	18
	<i>Repairs to presses, &amp;c.</i>	36
	<i>Two new presses and a small quantity of type,</i>	150
		204 0 0
	<i>Post Office,—Miscellaneous,</i>	130 2 6
	<i>Somerset Hospital,—Clothing and furniture,</i>	175 0 0
	<i>Pauper Establishment,—Clothing and furniture,</i>	150 0 0
	<i>Supreme Court,—Fuel, light, and miscellaneous,</i>	22 0 0
	<i>Master's Office,—Fuel and sundries,</i>	10 0 0
	<i>Sheriff's Office,—Summoning jurors and witnesses,</i>	1200
	<i>Expenses of criminal punishments,</i>	200
		1400 0 0
	<i>Judge and Superintendent of Police.—Police Department.</i>	
	Firewood,	90
	Passage and victualling of convicts forwarded by sea,	200
	Scales and weights for the town gaol,	6
	Soap, tobacco, candles, thread, needles, lime, and white-wash brushes,	150
	Boat, coach, wagon, and horse-hire, for the public service,	50
	Coals for the police court room,	5
	Allowance to the matron in the house of correction,	12
	Sundries, utensils, &c. for the prison and house of correction,	40
	Bedding for ditto,	232

Handcuffs and implements of punishment,	. 25	Ordinance
Clothing for prisoners in house of correction,	. 50	No. 3, 1840.
Coir rope for house of correction,	. 75	Estimates
Expenses for advertisements, &c.	. 6	1840
Allowance of forage to police surgeon,	. 27 9	
Smith's work for convicts,	. 35	
Medicines for prison dispensary,	. 15	
Sundry miscellaneous expenses,	. 11 10	
	<hr/> 1029 19 0	

*Robben Island Establishment.*

Medicines for convicts,	. 15	
Sundry materials and working implements,	. 250	
Gunpowder for the quarry,	. 18	
Materials for making shoes and caps for the convicts,	. 25	
Coals and fire-wood for lime burning,	. 400	
Draught horses,	. 180	
Forage, &c. for ditto,	. 150	
Harness for ditto,	. 15	
Bedding for the convicts,	. 60	
Boat, coolie, and wagon hire for the conveyance of lime and shells from Robben Island,	. 60	
Allowance to the commandant for superintending the supplies of provisions to convicts,	. 55	
Ditto to ditto for forage,	. 27 9	
Ditto to a second overseer,	. 45	
Ditto to two convict overseers,	. 6	
Repairs and expenses of the island boat,	. 130	
Remuneration to the book and storekeeper, civil engi- neer's department, for superintending the sale of Robben Island lime,	. 75	
<i>Miscellaneous.</i>	<hr/> 1511 9 0	

In aid of schools, &c. not on the govt. establishment,	. 650	
S. A. College, annual contribution,	. 200	
Ordinance storekeeper, for superintending receipt and issue of private gunpowder in Cape Town,	. 100	
Probable expenditure of colonial agent in England, under authority of colonial department,	. 1000	
Pensions to persons wounded or worn out in the service of the colony, or their families, (western and eastern divisions,)	. 25	
Allowance to the chief Waterboer, for schools at Griqua Town, and for conveyance of letters, &c. (paid in Cape Town,)	. 155	
For providing and furnishing new court room and office for the judge of police and station house for the police of Cape Town,	. 500	
	<hr/> 2855 0 0	

*Cape Division.*

Horse-hire to civil commissioner on other duty than collecting taxes,	. 27	
Superintendence of waterworks at Simon's Town,	. 40	
Allowance for two or more superintendents of the Cape flats and downs,	. 120	
Forage allowance to field-cornet of the downs, &c.	. 15	
Ditto to horses on the gaol establishment,	. 150	
Shoeing and saddlery for ditto on ditto,	. 22 10	
Repairs of boats at Simon's Town and Saldanha Bay,	. 15	
Surveying expenses,	. 30	
Allowance to resident surgeon, Simon's Town,	. 27 10	
Hire of a prison and offices at Wynberg,	. 31 10	

Ordinance No 3, 1840.	Necessaries for gaols, prisoners, &c.	15		
	Horse-hire to field-cornets on public service,	37	10	
Estimates 1840	Medical expenses,	30		
	Coals for court room,	4		
				565 0 0
	<i>Stellenbosch.</i>			
	Articles for gaols, prisoners, and convicts,	30		
	Putting convicts in irons, &c.	40		
	Horse-hire for civil commissioner on other duties than collecting taxes,	12		
	Expresses and horse-hire to field-cornets on public service,	200		
	Medical attendance and interpretations, circuit court,	30		
	Ditto ditto at the Paarl,	25		
	Travelling expenses of clerk of the peace,	25		
	Repairs of public buildings,	100		
	Ditto of gaols,	100		
	Temporary clerk to clerk of the peace during sessions of circuit courts,	15		
				577 0 0
	<i>Worcester.</i>			
	Necessaries for gaols, prisoners, and convicts,	75		
	Putting on and taking off convicts' irons, &c.	30		
	Interpreter, circuit court,	20		
	Horse-hire for district surgeon,	10		
	Repairs of buildings,	65		
	Repairs to gaol,	65		
	Horse-hire to field-cornets on public service,	100		
	Horse and wagon hire to civil commissioner on other duties than collecting taxes,	20		
	Expenses of justice of the peace, Tulbagh,	20		
	Gaoler's expenses and hire of lock-up house at do.	42		
				447 0 0
	<i>Clanwilliam.</i>			
	Necessaries for gaols, prisoners, and convicts,	30		
	Putting on and taking off convicts' irons, &c.	22	10	
	Horse-hire, &c. to clerk of the peace,	15		
	Interpreter, &c. circuit court,	20		
	Horse and wagon hire to civil commissioner on other duties than collecting taxes,	15		
	Horse-hire for conveying official letters,	50		
	Repairs of public buildings,	30		
	Ditto of Gaol,	10		
	Horse-hire to district surgeon,	50		
	Temporary clerk to clerk of the peace during sessions of circuit court,	15		
				257 10 0
	<i>Swellendam.</i>			
	Necessaries for gaols, prisoners, and convicts,	75		
	Supply of irons to convicts, &c.	105		
	Interpreter, circuit court,	20		
	Expenses and horse-hire for civil commissioner on other duty than collecting taxes,	50		
	Horse-hire for field-cornets,	125		
	Ditto to clerk of the peace, and district surgeon,	80		
	Repairs of buildings,	120		
	Ditto of Leper institution,	30		
	Ditto to gaol,	50		
	Medical attendance before circuit court,	10		
	Temporary clerk to clerk of the peace during sessions of circuit courts,	15		
				680 0 0



*George.*

Repairs of public buildings,	-	69
Repairs of prison buildings and yard,	-	192
Ditto of school ditto,	-	93
Interpreter circuit court,	-	20
Horse-hire to field-cornets,	-	80
Supply and repair of convicts' tools, and putting on and taking off convicts' irons,	-	12
Expenses and horse-hire to civil commissioner on other duties than collecting taxes,	-	20
Temporary clerk to clerk of the peace during sessions of circuit courts,	-	15
Necessaries to prisoners and convicts,	.	30
Kafir interpretations,	.	3
Hire of a building for lepers,	.	12

546 0 0

Ordinance  
No. 3, 1840.Estimates  
1840*Beaufort.*

Necessaries for gaols, prisoners, convicts, and working tools,	.	30
Putting on and taking off convicts' irons,	.	15
Interpreter, &c. circuit court,	.	20
Horse-hire to field-cornets,	.	78
Repairs of buildings,	.	50
Ditto of gaol,	.	80
Expenses and horse-hire for civil commissioner on other duties than collecting taxes,	.	20
Horse-hire for district surgeon,	.	50
Incidental,	.	50

393 0 0

For conveyance of gazettes, &c. to the field-cornets, —  
the maintenance of public watering and baiting places,  
—and the repairs or formation of by-roads, in the  
following divisions—

The Cape division,	.	400
Stellenbosch ditto,	.	300
Swellendam ditto,	.	250
Worcester ditto,	.	250
Clanwilliam ditto,	.	150
George ditto,	.	200
Beaufort ditto,	.	150

1700 0 0

Total £ 17,673 10 6

## SCHEDULE No. 4.

*Local Expenditure.—Western Districts**Roads and Ferries.—Cape Division.*

Repairs of toll roads,	£1500
Ditto streets, toll-house, &c. Simon's Town,	121
Ditto upper and lower toll-houses and gates,	60
Ditto toll-house, Muizenburg,	75

1756 0 0

*Stellenbosch.*

Repairs of Franche Hoek road and toll-house,	150
Ditto to bridges, &c. at ditto,	25
Ditto of roads near Palmiet and Bot Rivers,	59 19
Completing the causeway over Palmiet River,	457 17
Repairs to Sir Lowry Cole's Pass,	240
Ditto Houw Hoek,	190
Ditto to bridge over the Eerste River,	25

1147 16 0

Ordinance No. 3, 1840.	<i>Clanwilliam.</i>		
	Repairs of ferry boats, &c.		9 0 0
Estimates 1840	<i>Swellendam.</i>		
	Repairs of main post road through the division,	370	
	Ferry boats and buildings,	85	
	Formation of new road over the Platte Kloof,	338	
			793 0 0
	<i>George.</i>		
	Repairs to Cradock's Kloof,	250	
	Ditto of main road through Attaqua's and Lange Kloofs,	315	
	Repairs to ferry boats,	22 10	
			587 10 0
	Total	£4293	6 0

## SCHEDULE No. 5.

## Supplementary Expenditure.—Western Districts.

<i>Colonial Office.</i>			
Salary to a Scavenger, for keeping clean the public offices, at 30 <i>l.</i> , 6 months,			15 0 0
<i>Treasury.</i>			
Increase of salary of chief clerk,			30 0 0
<i>Audit Office.</i>			
Ditto ditto to ditto, at 20 <i>l.</i> , 6 months			10 0 0
<i>Stamp Office.</i>			
Ditto ditto to distributor, at 60 <i>l.</i> 8 months,			40 0 0
<i>Deeds' Registry.</i>			
Ditto ditto to chief clerk,	£70		
Ditto Ditto to 1st ditto,	40		
Salaries to three additional clerks,	240		
Ditto to Messenger, at 40 <i>l.</i> 6 months,	20		
			370 0 0
<i>Surveyor-General's Office.</i>			
Increase of salary to assistant surveyor general, at 50 <i>l.</i> 6 months,	25		
Ditto to chief clerk, at 20 <i>l.</i> 6 months,	10		
Ditto to 2d do. at 15 <i>l.</i> 6 months,	7 10		
Ditto to draftsman, at 40 <i>l.</i> 6 months,	20		
Ditto to messenger, at 5 <i>l.</i> 6 months,	2 10		
Salary to 2d assistant surveyor-general, at 300 <i>l.</i> , 6 months,	150		
Ditto to clerk of assistant surveyor-general in the Eastern districts, at 90 <i>l.</i>	45		
			260 0 0
<i>Civil Engineer Office.</i>			
Salary to assistant Civil Engineer,	250		
Ditto to two Foremen,	220		
Ditto to temporary clerk,	80		
			550 0 0
<i>Customs' Department.</i>			
Increase of salary to collector, at 300 <i>l.</i> , 6 months.			150 0 0
<i>Port Office.</i>			
Salary to extra boatman,	50		
Increase of ditto to boat's crew, signalman at the port office, and messenger,	51 10		
For carriage of provisions to signal station on the hill,	18 5		
			119 15 0
<i>Tax and Tithes' Office.</i>			
Salary to an extra clerk,			75 0 0

Government Bank.			Ordinance No. 3, 1840.	
Increase of do. to certain of its officers,		365	0	0
Government Printing Office.				
Additional do. to pressmen,	30			
Salary to an additional compositor,	60			
		90	0	0
Post Office.				
Increase of ditto to clerks, letter carriers, and country- postmasters,		126	15	0
Somerset Hospital.				
Increase of ditto to resident surgeon, at 100 <i>l.</i> 6 months,	50			
Ditto ditto to assistant ditto, at 80 <i>l.</i> ditto,	40			
		90	0	0
Colonial Medical Committee.				
Salary to the president,		52	10	0
Police Office.				
Increase of ditto to first clerk,	40			
Keeper of house of correction,	45			
		85	0	0
New Police Establishment.				
Salary to inspector,	200			
Ditto to four sub-inspectors, at 80 <i>l.</i>	320			
Ditto to four sergeants, at 61 <i>l.</i> 3 <i>s.</i>	244	12		
Ditto to thirty-seven constables, at 52 <i>l.</i>	1924			
For forty-five sets of uniform, at 7 <i>l.</i> 12 <i>s.</i>	342			
Forage, shoeing, saddlery, &c. for five horses,	201			
Two stable attendants,	45			
Arms, staves, rattles, &c.	32			
		3308	12	0
Cape District,—Civil Commissioner's Office.				
Increase of salary to the clerk of the magistrate's court, at 60 <i>l.</i> 6 months,	30			
Salary to an extra clerk,	75			
Clerk of the Peace Office.				
Ditto to an extra ditto,	20			
Church Establishment.				
Ditto to minister of the Dutch reformed church at Wynberg,	200			
Ditto to clerk at ditto,	30			
Ditto to two episcopal ditto, at Wynberg and Ronde- bosch,	200			
Ditto to two Clerks at ditto,	40			
		595	0	0
Stellenbosch District.				
Salary to medical officer at Stellenbosch,		100	0	0
Clanwilliam ditto.				
Increase of salary to civil commissioner,	60			
Ditto to ditto 1st clerk to do.,	20			
Salary to an extra clerk,	80			
Ditto to an additional field-cornet,	15			
Do. to district postmaster,	3			
Ditto to medical officer,	100			
		278	0	0
Swellendam ditto.				
Salary to two ministers of Dutch reformed church at Riversdale and Bredasdorp,	400			
Ditto two clerks to ditto,	60			
		460	0	0



Ordinance  
No. 3, 1840.Estimates  
1840*George district.*

Increase of salary to civil commissioner,	. 60		
Ditto ditto to clerk to do.	. 20		
Salary to an extra clerk,	. 80		
Ditto to justice of the peace, Long Kloof,	. 100		
Ditto to two overseers of crown forests,	. 224		
		484	0 0

*Beaufort ditto.*

Increase of salary to civil commissioner,	. 60		
Ditto to clerk to do.	. 20		
Salary to an extra clerk,	. 80		
Ditto to medical officer,	. 150		
		310	0 0

## TEMPORARY MAGISTRACIES.

*Wynberg.*

Hire of offices,	. 20		
Ditto for additional buildings for police,	. 28		
Salary to clerk of the peace,	. 100		
Ditto to magistrate's clerk,	. 80		
Allowance to two constables, at £31 10 each,	. 63		
Ditto to police constable acting as gaoler,	. 8		
		299	0 0

*Malmesbury.*

Hire of buildings,	. 81		
Salary to clerk of the peace,	. 100		
Ditto to magistrate's clerk,	. 80		
Ditto gaoler,	. 36		
Ditto to three constables, at £31 10 each,	. 94 10		
		391	10 0

*Paarl.*

Hire of buildings,	. 91 10		
Salary to clerk of the peace,	. 100		
Ditto magistrate's clerk,	. 80		
Ditto to gaoler,	. 36		
Ditto to one constable at £31 10, and addition to salary of two others,	. 46 10		
Allowance to constables not provided with lodging,	. 27		
		381	0 0

*Caledon.*

Hire of buildings,	. 25		
Salary to clerk of the peace,	. 100		
Ditto to magistrate's clerk,	. 80		
Ditto to gaoler,	. 36		
Ditto to one constable, and additional salary to two others,	. 54 10		
Allowance to constables not provided with lodging,	. 18		
		313	10 0

T total £9,349 12 0

## SCHEDULE No. 1.—(B.)

## Ordinary Expenditure.—Eastern Districts.

Lieutenant-governor's establishment,	. 2000	0	0
Albany district,	. 3361	11	8
Somerset ditto,	. 1336	13	3
Uitenhage ditto,	. 2739	0	0
Graaff-Reinet ditto,	. 1547	15	0
Colesberg ditto,	. 813	0	0
Cradock ditto,	. 663	6	8
Post offices,	. 131	0	0

Total £12,592 6 7

## SCHEDULE No. 2.—(D.)

*Fixed Contingencies.—Eastern Districts.*

				Ordinance No. 3, 1840.
				Estimates 1840
House-rent for lieut.-governor,	.	.	130 0 0	
Ditto for circuit judges,	.	.	95 0 0	
Ditto for three civil commissioners,	.	.	300 0 0	
Ditto for minister, Kat River,	.	.	50 0 0	
Ditto for minister, Port Elizabeth,	.	.	40 0 0	
Ditto for teacher at Graham's Town,	.	.	25 0 0	
Ditto ditto Bathurst,	.	.	15 0 0	
Ditto ditto Somerset,	.	.	15 0 0	
Ditto ditto Uitenhage,	.	.	22 10 0	
Rent of school room at ditto,	.	.	31 10 0	
Ditto ditto at Bathurst,	.	.	22 10 0	
Office rent for lieutenant-governor,	.	.	70 0 0	
Transport for lieutenant-governor,	.	.	100 0 0	
Ditto for circuit judges,	.	.	361 16 0	
Ditto for civil commissioners, medical officers, and field-cornets,	.	.	400 0 0	
Maintenance and clothing of convicts and prisoners,	.	.	4920 0 0	
Conveyance of convicts and prisoners,	.	.	345 0 0	
Ditto of lepers and destitute persons,	.	.	10 0 0	
Petty prison requisites,	.	.	200 0 0	
Inquests,	.	.	155 0 0	
Expenses of witnesses in criminal cases in district courts,	.	.	1200 0 0	
Horse-hire, in summoning ditto,	.	.	550 0 0	
Postage on official letters,	.	.	200 0 0	
Allowance to field-cornets not possessing loan places,	.	.	54 17 6	
Maintenance and clothing of lepers, &c.	.	.	500 0 0	
Bookbinding,	.	.	75 0 0	
Stationery,	.	.	600 0 0	
Horse allowance to justice of the peace, Fort Beaufort,	.	.	18 15 0	
Total				£10,506 18 6

## SCHEDULE No. 3.—(F.)

*Unfixed Contingencies.—Eastern Districts.**Albany.*

House-rent for minister at Bathurst,	.	.	30	
Ditto for teacher at Port Frances,	.	.	15	
Rent of school at ditto,	.	.	15	
House-rent for extra police, Graham's Town,	.	.	45	
Necessaries for gaols, prisoners, and convicts, supply and repair of convicts' tools, putting on and taking off irons of convicts, repairs of roads and tools for do.	.	.	400	
Service of summonses in criminal cases at Fort Beaufort,	.	.	15	
Police at ditto,	.	.	90	
Execution of criminal sentences,	.	.	20	
Interpretations before circuit court,	.	.	20	
Ditto magistrate's court, from the Dutch,	.	.	15 15	
Medical attendance in court,	.	.	35	
For the conveyance of extra official despatches,	.	.	5	
Surveys,	.	.	25	
Incidental petty expenses,	.	.	50	
Presents for Kafirs and other native tribes,	.	.	200	
Towards erection of public buildings, Fort Beaufort,	.	.	400	
Repairs to ditto, Graham's Town,	.	.	1000	
Rations for destitute,	.	.	50	
Allowance to a field-commandant,	.	.	22 10	
Conveyance of mail from Graham's Town to Salem,	.	.	10	
				2463 5 0

Ordinance  
No 3, 1840.

*Somerset.*

Estimates 1840	Allowance to a teacher for colored classes,	.	25	
	Rent of school room, teacher's house, and expenses,	.	28	10
	Necessaries for gaols, &c.	.	50	
	Execution of criminal sentences,	.	10	
	Interpretations before circuit courts,	.	20	
	For the conveyance of extra official despatches,	.	5	
	Surveys,	.	25	
	Incidental petty expenses,	.	50	
	Repairs of buildings,	.	110	
	One additional field-cornet,	.	15	
	Temporary clerk to clerk of the peace during sessions of circuit court,	.	15	
				353 10 0

*Uitenhage.*

	Allowance to overseer of convicts, Port Elizabeth,	.	68	8 9
	Ditto to a teacher for colored classes at Uitenhage,	.	25	
	Ditto to ordnance storekeeper for superintending receipt and issue of private gunpowder at ditto,	.	36	
	House-rent for police and convicts at Port Elizabeth,	.	81	
	Rent of the port office, at ditto,	.	12	
	Necessaries for gaols, &c.	.	50	
	Execution of criminal sentences,	.	20	
	Interpretations before circuit courts,	.	20	
	Medical attendance in courts,	.	10	
	For the conveyance of extra official despatches,	.	35	
	Surveys,	.	30	
	Incidental petty expenses,	.	50	
	Officer of health at Port Elizabeth for boarding Vessels,	.	7	10
	Repairs to public buildings,	.	250	
	Ditto to school room at Uitenhage,	.	10	16
	Projected repairs of the road from the head of the Kromme River to Uitenhage and Port Elizabeth,	.	275	
	Tolls, ferries, canals, and bridges at Uitenhage,	.	15	
	Allowance to overseer of leper and destitute asylum near Port Elizabeth,	.	40	
	Rent of custom house at ditto,	.	60	
				1095 14 9

*Graaff-Reinet.*

	House-rent for gaoler,	-	18	
	Necessaries for gaols, &c.	-	300	
	Execution of criminal sentences,	-	23	
	Interpretations before circuit courts,	-	20	
	Medical attendance in ditto,	-	10	
	For the conveyance of extra official despatches,	-	25	
	Surveys,	-	25	
	Incidental petty expenses,	-	50	
	Repair of Buildings,	-	475	
	Ditto ferries, canals, dams, and bridges	-	100	
	Winding up and repairs of town clock,	-	22	10
	Allowance to two attendants on sick prisoners,	-	2	8
	Temporary clerk to clerk of peace during sessions of circuit court,	-	15	
				1085 18 0

*Colesberg.*

	Ditto to teacher (with allowance for scholars,)	-	60	
	House-rent to teacher,	-	15	
	Rent for public offices,	-	37	16
	Ditto of house for gaoler,	-	15	
	Necessaries for gaols, &c.	-	75	



Execution of criminal sentences,	-	5						Ordinance No. 3, 1840.
Conveyance of extra official despatches,	-	20						
Incidental petty expenses,	-	50						Estimates 1840
Repairs of prison and public buildings,	-	450						
Interpreter circuit court,	-	10						
Kafir ditto, magistrate's court,	-	25						
Travelling expenses of magistrate, clerk of the peace, and clerk of the court for circuit courts at Graaff- Reinet,	-	30						
<i>Cradock.</i>						792	16	0
Necessaries for gaols, &c.	-	65						
Execution of criminal sentences,	-	15						
Conveyance of extra official despatches,	-	20						
Surveys,	-	15						
Incidental petty expenses,	-	50						
Additions to prison and offices,	-	350						
Travelling expenses of magistrate, clerk of the peace, and clerk of court for circuit courts at Somerset,	-	15						
Interpreter and medical attendance, circuit courts,	-	10						
House-rent to police,	-	15				555	0	0
Office-rent to Postmasters at Graham's Town, Port Elizabeth, and Colesberg,	-					30	0	0
<i>Schools on the Frontier.</i>								
Three additional teachers at Balfour,	-	60						
Petty expenses,	-	40				100	0	0
<i>Sundry Expenses.</i>								
Printing eastern province gazette, &c.	-	300						
Repairs of house and offices of lieutenant-governor,	-	50				350	0	0
For conveyance of gazettes, &c. to the field-cornetries,— the maintenance of public watering and baiting places,—and the repairs or formation of by-roads, in the following divisions—								
Uitenhage division,	-	250						
Graaff-Reinet ditto,	-	200						
Albany ditto,	-	300						
Somerset ditto,	-	250						
Colesberg ditto,	-	150						
Cradock ditto,	-	150				1300	0	0
<b>Total</b>						<b>£8,126</b>	<b>3</b>	<b>9</b>

## SCHEDULE No. 6.

## Supplementary Expenditure.—Eastern Districts.

<i>Albany District</i> —Salaries to two extra clerks in the civil commissioner and resident magistrate's offices,	-	160						
Ditto to a field-cornet and superintendent of convict labour and roads in and near Graham's Town, in- cluding allowance for a horse,	-	77	7	6				
Ditto of seven additional field-cornets, at 15 <i>l</i> .	-	105						
Ditto of two constables at Salem and Sidbury,	-	46						
Ditto of four additional do. in Graham's Town,	-	144						
Allowance to an extra do. at the sitting of circuit,	-	10						
Ditto to market-master at Fort Beaufort,	-	22	10					
Ditto to postmaster at ditto,	-	12						
Ditto to medical officer,	-	150						
Ditto to a field-commandant,	-	22	10			749	7	6

Ordinance No. 3, 1840.	<i>Somerset ditto.</i>			
	Allowance to an extra clerk to civil commissioner,	.	25	0 0
Estimates 1840	<i>Uitenhage ditto.</i>			
	Salary to a messenger at Port Elizabeth,	.	25	
	Ditto to a field-cornet at ditto,	.	15	
	Ditto to extra constables at ditto,	.	60	
	Ditto to sexton at ditto,	.	18	15
	Ditto to an additional boatman at ditto,	.	27	
	Allowance for medical services at Uitenhage, Port Elizabeth, and leper hospital adjoining,	.	265	
				410 15 0
	<i>Graaff-Reinet ditto.</i>			
	Salary to medical officer,	.	150	0 0
	<i>Colesberg ditto.</i>			
	Salary to additional constables,	.	56	10
	Ditto to messenger,	.	25	
	Ditto to market master,	.	22	10
	Ditto to postmaster,	.	25	
	Ditto to medical officer,	.	150	
				279 0 0
	<i>Cradock ditto.</i>			
	Salary to five field-cornets,	.	75	
	Allowance for medical services,	.	150	
	Ditto to messenger,	.	25	
	Ditto to additional constables,	.	56	10
	Ditto to a field-commandant,	.	22	10
				329 0 0
	Increase to salaries of certain postmasters,	.	96	0 0
	Salary to engineer, for superintending the formation and repairs of roads,	.	200	0 0
	<i>Kafir Police.</i>			
	Provisions,	.	1800	
	Pay of 14 corporals, at 6d.—70 privates, at 4d.	.	553	11 8
	Clothing, 84 suits, at 1l. 10s.	.	126	
				2479 11 8

## AGENT GENERAL'S DEPARTMENT.

Salary to agent general (£350 already estimated on lieutenant-governor's establishment,)	150		
Allowance of house-rent to ditto,	50		
Salary to clerk and interpreter,	200		
Ditto to diplomatic agent to Gaika tribe,	300		
Ditto ditto T'Slambie and Congo tribes,	300		
Ditto ditto Tambookies,	150		
Ditto ditto Crieli's Kafirs,	150		
Interpreter to agent to Gaika tribe,	27		
Allowance to ditto for forage,	18	15	
			1345 15 0
			Total £6,064 9 2

*God save the Queen!*

Given at the Cape of Good Hope, this 13th day of May 1840.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) Charles Bell,  
Acting Clerk of the Legislative Council.

*Government Advertisement.*

By direction of the right honorable the secretary of state for the colonial department, his excellency the governor has ordered the publication of the following brief, which has been issued by his holiness the pope, enjoining all Roman catholics to abstain from slave trade.

Colonial Office, Cape of Good Hope, 9th June 1840.

By His Excellency's Command,

(Signed) John Bell,

Secretary to Government.

Govt. Advt.  
June 9, 1840

Papal Brief  
respg. Slave  
Trade.

GREGORIUS. P. P. 16.

*Ad futuram rei memoriam.*

In supremo Apostolatus fastigio constituti, et nullis licet suffragantibus meritis gerentes vicem Jesu Christi, Dei Filii, qui propter nimiam caritatem suam Homo factus mori etiam pro mundi redemptione dignatus est, ad Nostram pastorem sollicitudinem pertinere animadvertimus, ut fideles ab inhumano Nigritarum seu aliorum quorumcunque hominum mercatu avertere penitus studeamus. Sane cum primum diffundi cœpit Evangelii lux, senserunt alleviari plurimum apud Christianos conditionem suam miseri illi, qui tanto tunc numero bellorum præsertim occasione in servitutem durissimam deveniebant. Inspirati enim a Divino Spiritu Apostoli servos quidem ipsos docebant obedire Dominus carnalibus sicut Christo, et facere voluntatem Dei ex animo; dominis vero præcipiebant, ut bene erga servos agerent, et quod justum est et æquum eis præstarent, ac remitterent minas, scientes quia illorum et ipsorum Dominus est in cœlis. Personarum exceptio non est apud eum. <sup>(1)</sup> Universim vero cum sincera erga omnes caritas Evangelii lege summopere commendaretur, et Christus Dominus declarasset habiturum se tanquam factum aut denegatum sibi ipsi quidquid benignitatis et misericordiæ minimis et indigentibus præstitum aut negatum fuisset, <sup>(2)</sup> facile inde contigit nedum ut Christiani servos suos, præsertim Christianos, veluti fratrum loco haberent <sup>(3)</sup> sed etiam ut priores essent ad illos, qui mererentur, libertate donandos: quod quidem occasione imprimis Paschali solennium fieri consuevisse indicat Gregorius Nyssenus. <sup>(4)</sup> Nec defuerunt, qui ardentiore caritate excitati se ipsos in vincula conjecerunt, ut alios redimerent; quorum multos se novisse testatur Apostolicus Vir, idemque sanctissimæ recordationis Præcessor Clemens I. <sup>(5)</sup> Igitur progressu temporis Ethnicarum superstitionum caligine plenius dissipatâ, et rudiorum quoque populorum moribus Fidei per Caritatem operantis beneficio mitigatis, res eo tandem devenit, ut jam a pluribus sæculis nulli apud plurimas Christianorum gentes servi habeantur. Verum, dolentes admodum dicimus, fuerunt subinde ex ipso Fidelium numero, qui, sordidioris lucri cupidine turpiter obcœcati, in dissitis remotisque Terris Indos, Nigritas, miserosve

<sup>(1)</sup> Ad Ephesios VI. 5. et seq.—Ad Coloss. III. 22 et seq.—IV. 1.

<sup>(2)</sup> Mathæi. XXV. 35 et seq.

<sup>(3)</sup> Lactantius Divin. Institution. Lib. V. c. 16 Tom. IV. Biblioth. Veterum Patrum Venetiis a Gallandio editæ, page. 318.

<sup>(4)</sup> De Resurrect. Domini Orat. III. Tom. III. page 420. Operum edit. Parisien Anno 1638.

<sup>(5)</sup> Ad Corinth. Ep. I. cap. 55. Tom. I. Bibl. Gallandii p. 35.



Govt. Advt.  
June 9, 1840

Papal Brief  
respg Slave  
Trade.

alios in servitutem redigere, seu instituto ampliatioque commercio eorum qui captivi facti ab aliis fuerant, indignum horum facinus juvare non dubitarent. Haud sane prætermiserunt plures glor : mem : Romani Pontifices Præcessores nostri reprehendere graviter pro suo munere illorum rationem, utpote spirituali ipsorum salutis noxiam, et christiano nomini probosam; ex quâ etiam illud consequi providebant, ut infidelium gentes veram nostram Religionem odio habendam magis magis-pue obfirmarentur. Quo spectant Apostolicæ Litteræ Pauli III. die 22 Mali MDXXXVII sub Piscatoris annulo datæ ad Cardinalem Archiepiscopum Toletanum : et aliæ deinceps eisdem ampliores ab Urbano VIII. datæ die 22 Aprilis MDCXXXIX ad Collectorem Jurium Cameræ Apostolicæ in Portugallia; quibus in Literis II. nominatim gravissime coercerentur, qui Occidentales aut Meridionales Indos in servitutem redigere, vendere, emere, commutare, vel donare, ab uxoribus et filiis suis separare, rebus et bonis suis spoliare, ad alia loca deducere et transmittere, aut quoquo modo libertate privare, in servitute retinere, nec non prædicta agentibus consilium, auxilium, favorum, et operam, quocunque prætextu, et quæsito colore, præstare, aut id licitum prædicare, seu docere, ac alias quomodolibet præmissis co-operari auderent seu præsumerent. (6) Has memoratorum Pontificum sanctiones confirmavit postmodum et renovavit Benedictus XIV novis Apostolicis Litteris ad Antistites Brasiliæ et aliarum quarumdam Regionum datis die 20 Decembris MDCCXLI. quibus eundem in finem ipsorum Præsulum sollicitudinem excitavit (7). Antea quoque alius his antiquior Præcessor noster Pius II quum suâ ætate Lusitanorum imperium in Guineam Nigritarum regionem proferretur, Litteras dedit die 7 Octobris MCCCCXII ad Episcopum Rubicensem eò profecturum; in quibus nedum Antistiti ipsi opportunas ad sacrum Ministerium ibi cum majori fructu exercendum facultates impertitus fuit; sed eadem occasione graviter in christianos illos animadvertit, qui Neophytos in servitutem abstrahabant. (8.) Et nostris etiam temporibus, Pius VII eodem, quo sui Decessores, religionis et caritatis spiritu inductus, officia sua apud potentes viros sedulo interposuit, ut Nigritarum commercium tandem inter christianos omnino cessaret. Hæ quidem Præcessorum nostrorum sanctiones et curæ profuerunt, Deo bene juvante, non parum Indis, aliisque prædictis a crudelitate invadentium, seu a Mercatorum Christianorum cupiditate tutandis; non ita tamen ut sancta hæc sedes de pleno suorum in id studiorum exitu lætari possit, quum immo commercium Nigritarum, etsi nonnullâ ex parte imminutum, adhuc tamen à Christianis pluribus exerceatur. Quare Nos tantum hujusmodi probrum a cunctis Christianorum finibus avertere cupientes, ac re universâ, nonnullis etiam venerabilibus Fratribus Nostris S. R. E. Cardinalibus in consilium adhibitis, mature perpensâ, Prædecessorum Nostrorum insistentes vestigiis, auctoritate Apostolicâ omnes cujuscumque conditionis Christifideles admonemus et obtestamur in Domino vehementer, ne quis audeat in posterum Indos, Nigritas, seu alios hujusmodi homines injuste vexare, aut spoliare suis bonis, aut in servitutem redigere, vel aliis talia in eos patrantibus aut favorem præstare, seu exercere inhumanum illud commercium, quo Nigritæ, tamquam si non homines sed pura mutaque animantia forent, in servitutem utcumque redacti sine ullo discrimine contra justitiæ et humanitatis jura, emuntur, venduntur, ac durissimis interdum laboribus et nefandis, devoentur, et insuper lucri spe primis Nigritarum occupatoribus per commercium idem propositâ, dissidia

(6) In Bullar. Rom. edit. typis Mainardi Tom. VI. part. 2. Const. 604. p. 183.

(7) In Bullario Benedicti XIV. Tom. 1. Const. 38.

(8) Apud Raynaldum in Annalibus Ecclesiasticis ad An. 1462, No. 42.

etiam et perpetua quodammodo in illorum regionibus prælia foveant. Enimvero nos prædicta omnia, tamquam Christiano nomine prorsur, auctoritate Apostolica reprobamus, eademque auctoritate districte prohibemus atque interdiciamus, ne quis Ecclesiasticus aut Laicus ipsum illud Nigritarum commercium veluti licitum sub quovis aut quæsito colore tueri, aut aliter contra ea, quæ nostris hisce Apostolicis Litteris monuimus, prædicare, quomodolibet publice, vel privatim præsumat.

Ut autem eadem hæ Nostræ Litteræ omnibus facilius innotescant, nec quisquam illarum ignorantiam allegare possit, decernimus et mandamus illas ad valvas Basilicæ Principis Apostolorum et Cancellariæ Apostolicæ nec non Curiae Generalis in Monte Citatorio, ac in Acie Campi Floræ de Urbe per aliquem ex cursoribus Nostris, ut moris est, publicari, illarumque exempla ibidem affixa relinqui.

Datum Romæ apud S. Mariam Majorem sub Annulo Piscatoris die tertio Decembris MDCCCXXXIX, Pontificatus Nostri Anno Nono.

ALOISIUS CARD. LAMBRUSCHINI.

Die quinta dicti Mensis et Anni suprascriptæ Apostolicæ Litteræ affixæ et publicatæ fuerunt ad valvas Basilicæ Principis Apostolorum et Cancellariæ Apostolicæ, nec non Curiae Generalis in Monte Citatorio et in Acie Campi Floræ ac in aliis locis solitis et consuetis Urbis, per me Aloisium Pitorri Apostolicum Cursorem.

(Signed) JOSEPH CHERUBINI, Mag. Curs.

### *Government Advertisement.*

IN consequence of frequent representations respecting the great weight of the inland mails, chiefly owing to the very extended circulation of newspapers in the colony, but, perhaps, also in some measure, from the bulk and consequent weight of the public correspondence, His Excellency the Governor desires to follow (in the latter respect at least,) the example lately set by most of the public departments in England, in bringing, as far as convenience will admit, the government correspondence within smaller compass in point of bulk than it has hitherto filled.

There are several means of accomplishing this object. The most obvious is the economy of space. Two inches of margin are sufficient. No blanks should remain at the tops and bottoms of pages. Each page of foolscap size should, when full, contain about 30 lines. A multiplicity of copy-enclosures should, if possible, be avoided; but if necessary, and not likely to be separated from the letter to which they belong and refer, they should follow the letter on the same paper, or, at all events, they should not, each of them, form a separate enclosure on a separate sheet, as is very frequently the case at present. On the last page, whether of sheets or half sheets, the second space from the top when the page is to be folded into four, should be left clear of writing, for docket. If, allowing this space, a half sheet be sufficient for the letter, &c. no more need be used; and it is not necessary that each letter to the same address should be in a separate envelope.

Govt. Advt.  
June 9, 1840

Papal Brief  
respg. Slave  
Trade.

Govt. Advt.  
June 18, 1840

Public Cor-  
respondence.

Govt. Adv.  
June 18, 1840

Public Cor-  
respondence.

These recommendations are addressed chiefly to the civil departments of government, but His Excellency expects that they will be attended to by every department, unless there be some actual necessity for an adherence to the existing practice.

Colonial Office, Cape of Good Hope, 18th June, 1840.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

*At the Court of Buckingham Palace, the 3d April 1840,  
and published 31st July, 1840.*

Present:—The Queen's Most Excellent Majesty, &c. &c.

Ord. in Coun.  
April 3, 1840

Marriages.

WHEREAS by an order made by Her Majesty in council on the 7th day of September 1838,<sup>(1)</sup> it was, amongst other things, ordered that whenever the form and ceremony used in the solemnization of marriages at the colony of the Cape of Good Hope should be other than that of the united church of England and Ireland, each of the parties should in some part of the ceremony, make a certain declaration therein set forth, and should each address to the other certain words therein prescribed;—and whereas it has been represented to Her Majesty, that the ceremonial of marriage previously in use by the reformed Dutch church in the said colony prescribes the making a declaration and the use of words by parties contracting marriage, equivalent to the declaration and the words so prescribed as aforesaid by the said order of council,—It is therefore ordered by the Queen's most Excellent Majesty, by and with the advice of Her privy council, that so much of the said recited order in council shall be, and the same is hereby, repealed, so far as the said order requires, that at marriages celebrated at the Cape of Good Hope according to the forms and ritual of the Dutch reformed church, the before mentioned declaration shall be made, and the before mentioned words spoken.

And the Right Honorable Lord John Russell, one of Her Majesty's Principal Secretaries of State, having the department of the colonies, is to give the necessary directions herein accordingly.

(Signed) C. Greville.

### *Government Advertisement.*

Govt. Advt.  
Sept. 23, 1840

Med. Duties.

His Excellency the governor has been pleased to make the following arrangement for the future performance of certain public medical duties in and near Cape Town;—

1. The surgeon of Somerset hospital is relieved from all prison

(1) *Vide supra*, p. 22.



and police duties, and has charge of the following establishments only :—

- The Somerset hospital,
- The pauper establishment.
- The vaccine institution.

Govt. Advt.  
Sept 23, 1840

Med. Duties

These duties will be performed under the general superintendence of an inspector of colonial hospitals, who will visit the several establishments as often as he shall see fit, at uncertain periods, but not seldomer than once in every month, the officer in charge being present at every such visit. The inspector has power to give such directions to the officer in charge as he shall see fit, the same not being repugnant to the regulations for the respective establishments. He will see that those regulations are duly attended to ; and he will report personally to the governor the result of each inspection when completed.

2. The health officer of Table bay is relieved from the obligation of boarding all vessels arriving in the port, and will only be called upon to perform duty afloat in particular cases, and on requisition from government or from the port office. He will thus have sufficient leisure to attend to the following duties :

The medical charge of the prisoners in the Cape Town and Rondebosch gaols, and the house of correction ; their proper order and cleanliness ; the regularity of their meals ; and the sufficiency of the provisions supplied.

The police and inquest duties of the Cape and Wynberg magistracies, D'Urban and Simon's Town excepted.

He will visit the Cape Town prison daily ; the house of correction and Rondebosch prison as often as he shall see fit, at uncertain periods, but not seldomer than once in every week, and at all times when called upon so to do.

The magistrates of Cape Town and Wynberg will visit the prisons respectively at least once a month, and will report thereon to government only in case of any thing being found amiss. In like manner the superintendent of police will visit the house of correction.

These arrangements will take effect on the 1st October next.

Colonial Office, Cape of Good Hope, 23rd Sept. 1840.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

### *Government Advertisement.*

In the event of any of the captured negroes lately apprenticed out by the collector of customs, deserting from their masters, His Excellency the Governor recommends that the masters of any such apprentices should immediately make report of such desertion to the resident magistrate, giving a minute description of the deserter, and the *number* of the indenture, and which re-

Govt. Advt.  
Oct. 28, 1840

Desol. Apps.

Govt. Advt.  
Oct. 28, 1840

Desd. Apps.

port the magistrate will forthwith transmit to the secretary to government.

Persons are hereby cautioned against encouraging desertion or harbouring such apprentices, and reminded of the penalties prescribed by law for such offences. But in case of the apprehension of any such apprentice, he is to be brought before the nearest magistrate, who, if he see reasonable cause to deem him a deserter, will commit him to gaol, there to remain until duly discharged by a letter from this office, or from the collector of customs, or until claimed by his master (provided no complaint be made against the master) who will be chargeable for the cost of conveyance (if any) and of provisioning the deserter during his detention, at the rate of 6d. per diem, but no gaol fees are to be charged.

The magistrates are hereby particularly charged to endeavour to ascertain the cause of desertion, and where there is a complaint made by the deserter against the master, he will report the same to this office, and which will be communicated to the collector of customs.

Lists of deserters detained in the gaols are to be transmitted as early as possible to this office, for publication.

Colonial Office, Cape of Good Hope, 28th October 1840.

By His Excellency's Command,

(Signed)

John Bell,  
Secretary to Government.

### *Government Notice.—Caution.*

Govt. Advt.  
Nov. 4, 1840

Deserters.

HIS Excellency the Governor is pleased to direct the publication of the following extracts from acts of parliament, now in force, prescribing the punishments to which persons are liable for assisting, concealing, and seducing from his duty and allegiance any deserter from H. M. forces by sea or land; and to request the attention of all magistrates, police officers, and other inhabitants of this colony to the same :—(1)

Extract—ACT 3, VICTORIA I. CAP. VI.—“ And be it enacted, that every person who shall assist any deserter, knowing him to be such, in deserting, or in concealing himself, shall, for every such offence, forfeit the sum of TWENTY POUNDS ”

And, Extract—ACT 37, GEO. III. CAP. LXX.—“ Any person, who shall maliciously and advisedly, endeavour to seduce any person, or persons, serving in Her Majesty's forces by sea or land, from his or their duty and allegiance, shall, on being legally convicted of such offence, be adjudged guilty of felony, and shall suffer death.”

Colonial Office, Cape of Good Hope, 4th Nov. 1840.

By His Excellency's Command,

(Signed)

John Bell,  
Secretary to Government.

(1) *Vide Ordinance No. 98, vol. ii, p. 230.*

*Government Advertisement.*

Govt. Advt.  
Dec 17, 1840  
Import Duties

HIS excellency the governor has been pleased to direct that the following order of her majesty the Queen in council, for authorizing the several duties therein mentioned, to be levied upon goods, wares, and merchandize imported into the settlement of the Cape of Good Hope, be published for general information, and for the guidance of the several officers of H.M. customs in this colony, and the same is hereby proclaimed, promulgated, and published accordingly.

His excellency has been further pleased to direct that intimation be made of the intended discontinuance of the several taxes imposed by the ordinance No. 57, from and after the 31st instant.

The several collectors have been instructed to use their utmost diligence in collecting such of the said taxes as shall become due and payable for the present year, as also all arrears of the same for previous years.

Colonial Office, Cape of Good Hope, 17th December 1840.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

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*At the Court at Buckingham Palace, the 10th Day of August 1840.*

Present :—The Queen's Most Excellent Majesty, &c. &c.

WHEREAS by a certain act of parliament, made in the session of parliament holden in the 3d and 4th years of the reign of his late majesty king William the fourth, entitled "an act to regulate the trade of the British possessions abroad," it is amongst other things enacted that it shall be lawful for her majesty by and with the advice of her privy council, by any order or orders in council to be issued from time to time, to give such directions and make such regulations touching the trade and commerce of, to, and from any British possession, on or near the continent of Europe, or within the Mediterranean Sea, or in Africa, or within the limits of the East India Company's charter, excepting the possessions of the said company, as to her majesty in council shall appear most expedient and salutary.

And whereas by an order in council of the 22d February 1822, made in pursuance of an act passed in the 6th year of the reign of his majesty king George the 4th, entitled "an act to regulate the trade of the British possessions abroad," certain duties of customs are imposed upon goods imported into the colony of the Cape of Good Hope, and it is expedient to repeal the said duties, and to impose other duties of customs in lieu thereof, her majesty doth therefore, with the advice of her privy council and in pursuance and exercise of the powers so vested



Govt. Advt.  
Dec. 17, 1840  
Impt. Duties.

in her as aforesaid by the said recited act of parliaments, order, and it is hereby ordered, that upon goods, wares, and merchandize imported into the Cape of Good Hope, the duties imposed by the said order in council shall cease and be no longer payable, and that in lieu of the same, there shall be levied the several duties set forth in the table hereinafter contained, that is to say,—

A table of the duties of customs payable on goods, wares, and merchandize imported into the colony of the Cape of Good Hope.<sup>(1)</sup>

<i>Inwards.—Coffee.</i>			<i>Duty.</i>		
			£	s.	d.
Produce of British possessions, per cwt.	-	-	0	5	0
Produce of foreign possessions, per cwt.	-	-	0	10	0
Flour, wheaten, not being the manufacture of the United Kingdom, per barrel of 196 lbs.	-	-	0	3	0
Gunpowder, per lb.	-	-	0	0	3
Pepper, per cwt.	-	-	0	4	0
Rice, per cwt.	-	-	0	1	0
<i>Sugar, viz.</i>					
Not refined, the produce of any British possession, per cwt.	-	-	0	2	3
Not refined, the property of any other place, per cwt.	-	-	0	4	0
Refined of candy, not manufactured in the United Kingdom, per cwt.	-	-	0	6	0
Refined of candy, the manufacture of the United Kingdom, per cwt.	-	-	0	3	0
<i>Spirits, viz.</i>					
Brandy, the produce of France, not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength, per imperial gallon,	-	-	0	0	4
All other spirits, not being the manufacture of the United Kingdom, or of any British possession (as before), per imperial gallon,	-	-	0	1	0
Spirits of all sorts, being the manufacture of the United Kingdom, or of any British possession (as before), per imperial gallon,	-	-	0	0	4
Tea, per lb.	-	-	0	0	4½
<i>Tobacco, viz.</i>					
Not manufactured, per cwt.	-	-	0	12	0
Manufactured, (not segars), per cwt.	-	-	1	0	0
Cigars, per 1000,	-	-	0	5	0
<i>Wood, manufactured, viz.</i>					
Mahogany, rosewood, and teakwood, per cubic feet,	-	-	0	0	3
All other wood, not the produce of the United Kingdom, per cubic feet,	-	-	0	0	2
<i>Wine, viz.</i>					
In bottles, each not of greater content than six to the imperial gallon, per dozen bottles,	-	-	0	4	0
In bottles, each not of greater content than twelve to the imperial gallon, per dozen bottles,	-	-	0	2	0
Not in bottles, per imperial gallon,	-	-	0	1	0
Goods, wares, and merchandize, not otherwise charged with duty, being the growth, produce or manufacture of the United Kingdom, or of any of Her Majesty's possessions abroad, for every £100 of the value,	-	-	3	0	0

(<sup>1</sup>) *Vide* Proclamation, 30th June 1842,—*infra*.

Goods, wares, and merchandize, not otherwise charged with duty, and not herein declared, to be free of duty, being the growth, produce or manufacture of any foreign state, for every £ 100 of the value, - - -

10 0 0

Govt. Advt.  
Dec. 17, 1840.

Impt Duties.

*Free.*

Bottles of common glass, imported full.

Bullion.

Casks, staves, hoops, and coopers rivets.

Coin.

Diamonds.

Horses, mules, asses, sheep, cattle, and other live stock and live animals.

Seeds, bulbs, and plants.

And it is hereby further ordered that the duties set forth in the foregoing table, shall be levied, paid, received, and appropriated in the like manner as if the same had been imposed by the aforesaid order in council of the 22d day of February 1832, and set forth therein.

And it is hereby further ordered that this order shall come into operation from the time that the same shall be made known in the said colony by a proclamation of the governor of the said colony.

And the right honorable the lords commissioners of her majesty's treasury, are to give the necessary directions herein accordingly.

(Signed) C. C. Greville.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

WHEREAS on the 19th day of November 1835, it was publicly notified in the *Government Gazette*, that shortly thereafter the further circulation of Rix-dollar Notes in this colony would be finally and peremptorily prohibited:—And whereas from that period until the present time all such notes, being genuine, and presented at the treasury in Cape Town, have been duly paid; and thus abundant opportunity has already been given to all persons holding such notes, to receive value for the same:—And whereas it is necessary that a period should now be fixed, after which no value shall be given for such notes: I do hereby order and direct, that from and after the 31st day of March 1841, the proclamation issued by His Excellency the late governor on the 31st day of March 1836, in which provision was made for the exchange of such notes, shall stand repealed; and that thenceforth no such notes shall be payable or exchangeable at the colonial treasury, nor in any Public Office under the authority of the government of this colony.

Proclamation  
Dec. 30, 1840

Rix-dollar  
Notes.

*God save the Queen!*

Given under my hand and the public seal of the settlement, at Graham's Town, Cape of Good Hope, this 20th day of December 1840.

(Signed) George Napier,

By Command of His Excellency the Governor,

(Signed) John Bell,

Secretary to Government.

Govt. Advt.  
Mar. 18, 1841

Masters and  
Servants'.

*Government Advertisement.*

*Ordinance for amending and consolidating the Laws regulating the relative rights and duties of masters, servants, and apprentices.*

WHEREAS the above ordinance was, on the 5th day of March instant, published and promulgated for the due execution of the same within the colony : and whereas certain doubts have since arisen, whether the same (however desirable such its immediate enforcement within the colony for the public interest) in respect of the order in council, dated 15th January 1829, could be carried into immediate execution, and reference thereon to the judges having been made, they have found reason to advise His excellency the governor, that the said ordinance cannot be put into execution, and enforced by the colonial tribunals, until the same shall have been expressly ratified, confirmed and allowed by Her Majesty, with the advice of Her privy council.

Now, therefore, under and per force of the premises, His excellency accordingly does hereby make known and declare, that the said ordinance, notwithstanding such its publication and promulgation aforesaid by him, and notwithstanding it contains no enactment, provision, or alteration whatever, which does not tend to amend, extend, and secure the interests of the particular class, the protection and maintenance of which were wholly and solely had in concern, and provided for, by the said 50th Ordinance, cannot be carried into operation and effect, but, on the contrary, must remain as void and of no effect until the same shall have been ratified, confirmed, and allowed as aforesaid. And further, that until so duly ratified, confirmed and allowed, Her Majesty's judges, justices, officers, and others within the colony, are wholly freed, discharged, exempted, and exonerated, as far as in His excellency lies from carrying the said ordinance, or any part thereof into execution whatever.

Colonial Office, Cape of Good Hope, 18th March 1841.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

No. 1, 1841.—Signed, George Napier.

*Ordinance for the better collection, as regards the Town of Cape Town, of certain Taxes and Duties due and in arrear. <sup>(1)</sup>*

*List of arrears of assessed taxes to be made out.*

WHEREAS various persons, who, by reason of residence or other occupation of premises, within the limits of the municipality of

Ordinance  
No. 1, 1841.

Arrear  
Taxes.

<sup>(1)</sup> Sanctioned and allowed by the Queen,—*vide* proclamation 7th September 1841,—see also ordinance No. 57, 1829, vol. 2, p. 14.



Cape Town, have heretofore become liable to the payment of certain taxes and duties, that is to say, the hearth or hours tax, the water-leading tax, the private water-leading tax, the personal assessment, the tax on servants, the tax on horses, the tax on carriages, and the income duty, have suffered the same, or some of them, to fall considerably into arrear; and whereas it is expedient to make better and more effectual provision for the levying and collection of the said arrears of the said taxes: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that it shall be the duty of the collector of taxes in Cape Town, to draw out, with all convenient speed, an alphabetical list or alphabetical lists, containing the names of all such persons as aforesaid, (except as hereinafter excepted,) by whom any arrears of any of the said taxes are due and payable, which list or lists shall be framed in such a manner as to show the actual tax or taxes in arrear, the separate amount of every such tax so in arrear, and the particular years or times during which such arrears shall have accrued due, and the said list or lists shall be brought down and completed to the first of January, one thousand eight hundred and forty-one. Provided, however, that in the drawing out of such list or lists, the said collector shall not include or reckon as in arrear, any amount whatever of any tax, which amount became due during any of the time for which, by the authority of His Excellency the Governor, the collection of such tax was suspended: And provided also, that the said collector shall not include in the said list or lists the name of any person whom he shall, in the exercise of his judgment, think it unnecessary to place there as being a person from whom no part of any arrear which may by him be due and owing could be levied or recovered.

*Fresh lists of arrears of assessed taxes.*

2. And be it further enacted, that the said collector shall, besides the list or lists last mentioned, also draw out a further list or further lists, to be framed generally upon the plan of the list or lists last mentioned, and which shall contain the names, and when discoverable, the residences, of all persons by whom any of the said arrears shall be owing, but from whom, in the judgment of the said collector, no part of any of such arrears could be levied or recovered, and shall set forth opposite to, or in connexion with, each name, the ground or reason, whether absence, insolvency, or otherwise, upon which the said collector shall judge that the debt due cannot be levied and recovered; and the said collector, besides causing to be posted a copy or copies of such list or lists, as in the next succeeding section ordered, shall transmit a copy or copies of the same to the colonial secretary for the inspection of His excellency the governor, who shall institute such

an examination of the same, and give such directions to the said collector respecting any of the cases in such list or lists comprised, as he shall deem expedient.

*Both lists to be posted.*

3. And be it further enacted, that the said collector of taxes shall cause or procure a fair copy or fair copies of such list or lists as are in the two preceding sections respectively described, signed by himself, to be posted in some conspicuous place at the town house of the municipality aforesaid, for public inspection: and any person wilfully destroying, damaging, or defacing the same, shall incur a penalty not exceeding five pounds.

*Notice to be served on each person in arrear.*

4. And be it further enacted, that the said collector of taxes shall besides the two or more lists aforesaid, also prepare or cause to be prepared a separate notice to be addressed to every person named in the list or lists in the first section mentioned, and also to any person named in the list or lists in the second mentioned, whom the said collector shall, from further information or inquiry, deem able to discharge or satisfy the arrears due by him, or some part thereof, or whom he shall be directed by His excellency the governor to serve with such notice, and which person shall not previously have paid off his said arrears, which notice shall be in the form set forth in the first schedule hereunto annexed; and the said collector of taxes shall, as soon as may be, after the preparation and posting of the lists aforesaid, cause every such notice to be served upon the individual to whom it is directed, in person. And it shall be the duty of the person employed to serve any such notice, to have and preserve a correct copy thereof, and to mark upon such copy as speedily as may be, the time at which, and the place in which, the original notice was so personally served.

*Payment may be made, or objections lodged within thirty-one days.*

5. And be it further enacted, that it shall and may be lawful for any person upon whom any such notice as aforesaid shall have been served, at any time within thirty-one days from the date of the service of such notice, to pay to the said collector of taxes the sum demanded by said notice, or in case any such person shall object to the payment of the sum so demanded, to lodge his objections to the same, in writing, at the office of the collector of taxes, stating particularly the part or parts of such sum which he disputes, in case he does not dispute the whole of it, and setting forth his grounds and reasons of objection fully and at large.

*If no objection be made, debt to be considered constituted.*

6. And be it further enacted, that at and after the expiration of thirty-one days from the day on which notice as aforesaid

shall have been duly served, the sum demanded by such notice shall, in case the same shall not have been paid or discharged as aforesaid, or in case no such objections as aforesaid shall have been lodged as aforesaid, be deemed and taken for the purpose of any distress and sale under this ordinance to be a debt duly ascertained and constituted, which shall become recoverable as hereinafter set forth; and after any debt shall have been thus ascertained and constituted, it shall not be competent for any person affected thereby to open up, dispute, or question the same, or any part thereof, in any suit or action to recover any sum levied under this Ordinance, which shall not be commenced within six calendar months from the day of levy made, to which suit or action the provisions in the 15th section of this Ordinance shall be deemed and taken to apply.

*Objections, if made, to be considered,—and, if proper, allowed.*

7. And be it further enacted, that in case any such objections as aforesaid shall be duly lodged within the time in that behalf provided, the said collector of taxes shall carefully investigate the grounds and reasons of the same, and shall, in case the latter appear to him to be well founded, allow the said objections, and forthwith give notice, in writing, of such allowance, (which notice shall be served in the same manner as is herein before directed with respect to the other notice already mentioned.) And if such objections so allowed by the said collector shall not go to the entire sum originally demanded, then the said sum so originally demanded, less the amount objected to and allowed, shall from and after the giving of the said notice of allowance, be deemed and taken to be a debt alike ascertained and constituted to all intents and purposes as the debt in the last preceding section more particularly mentioned: Provided always, and it is hereby declared, that it shall at all times be competent for His Excellency the Governor, to prescribe such rules, and provide such means, for the investigation of objections, and the allowance, partial allowance, or disallowance of the same, as he shall deem fitting and expedient,—and it shall be the duty of the said collector to conform himself thereto.

*Course to be pursued when objections are disallowed.*

8. And be it further enacted, that in case any such objection so lodged as aforesaid, shall be disallowed by the said collector of taxes, or shall be allowed by him only in part, a notice in writing shall be served in like manner as the other notices hereinbefore mentioned, upon the party who shall have made the objection, stating the decision of the said collector with respect to the same, and then the sum originally demanded, less the whole amount objected to, shall, if any, be deemed and taken, from and after the service of the last mentioned notice, to be a debt duly ascer-



Ordinance  
No. 1, 1841.

Arrear  
Taxes.

tained and constituted to all intents and purposes, as the debts in the two immediately preceding sections mentioned. But at the same time it shall be competent for the said collector to authorize and direct the levy, in the manner hereinafter set forth of the amount of disallowed objections, precisely as if such amount were part of the constituted debt, subject however to the provisions contained in section 11 of this ordinance, as hereinafter stated.

*Certificate to sheriff to levy debt.*

9. And be it further enacted, that at any time after any debt as aforesaid, shall, by any of the ways or modes aforesaid, have been duly ascertained or constituted, and at any time after service of the notice of entire or partial disallowance, in any case in which the whole sum demanded shall be objected to, it shall and may be lawful for the said collector of taxes, in case the debt or sum demanded shall not have been previously discharged, to place in the hands of the high sheriff of the colony, or of the person for the time being acting as such, a certificate in writing signed by the said collector, setting forth the name and residence of the defaulter, the amount to be recovered, and an authority to levy the same, which certificate shall be either in the form in the second or in the form in the third schedule hereunto annexed, according as the one or the other of the said forms may apply to the circumstances of the case; and the said collector shall forthwith cause to be served upon such defaulter, either personally, or by leaving the same at his usual place of residence, with some person thereat, a notice in writing, stating the day on which such certificate was so handed over, and further, that the sum therein mentioned will be levied by distress and sale, in case the same shall not be paid to the said sheriff within the period of fourteen days from the handing over of the said certificate, as in the preceding section mentioned.

*After fourteen days, such certificate to be treated as process of supreme court.*

10. And be it further enacted, that the said last mentioned certificate, so to be delivered as aforesaid to the said sheriff, shall, as soon as may be, after the expiration of fourteen days from the day on which the same shall have been so handed over as aforesaid, but not sooner, be put into execution, and the same shall stand for and be executed in the same manner as final process of the supreme court against moveable property, but no greater amount shall, in any case, be levied and raised than the sum mentioned in the said certificate, together with the usual costs and charges attendant upon the seizure or seizure and sale, as in like cases of process of execution, upon the amount of arrears paid after seizure, or otherwise levied by sale. And in case any third party shall claim any interest in any moveable property

about to be seized as aforesaid, it shall be lawful for the said collector of taxes, if he shall see just cause, to authorize and direct the said sheriff to seize and sell such property, notwithstanding any such claim, for which sale and seizure the said collector shall be responsible to the person claiming an interest in the property so seized and sold for all loss or injury occasioned to such person by such seizure or sale. Provided, however, that nothing herein contained shall be deemed or taken to deprive any person so claiming any such property, of the right to seek the intervention of any competent court, for the purpose of interdicting or preventing any such sale.

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*Disputed amount not to be levied, if security given.*

11. And be it further enacted, that it shall and may be lawful for any person who shall have duly lodged any such objections as are herein before referred to, and whose objection shall either wholly or in part have been deemed untenable by the said collector, at any period between the time at which the certificate aforesaid shall have been placed in the hands of the said sheriff, and the time at which any property seized by virtue thereof shall be appointed to be sold, to give sufficient security to the said sheriff by way of recognizance, and either with or without sureties, as the said sheriff shall determine, to pay the full sum which he disputes, together with any costs which may be awarded against him by any competent court in which the suit next hereinafter mentioned shall be instituted, in case such court shall determine against the party so objecting, and giving such security. And the said sheriff shall, upon obtaining such security, forego all further proceedings in relation to the sum so in dispute, and shall hand over the said recognizance to the said collector, who shall forthwith cause proceedings to be commenced in some competent court for the recovery of the amount in controversy. Provided, however, and it is hereby expressly declared, that it shall and may be lawful for any such person as aforesaid, whose objection shall either wholly or in part have been disallowed by the said collector at any time after such disallowance, and before the issuing of the certificate aforesaid, to pay to the said collector, or to pay to the said sheriff, at any time after the issuing of such certificate, and before any seizure made under the authority thereof, the sum, if any, which such person shall, by not objecting thereto, admit to be due : and provided also, and it is hereby further declared, that in case the sum, if any, so admitted to be due, shall not have been paid, previous to a seizure of property as aforesaid, the said sheriff shall, notwithstanding any security tendered and taken as aforesaid for the sum in dispute, proceed to levy and raise the sum, if any, admitted to be due, in the same manner as if the sum so admitted to be due, had been the only sum originally demanded, and if no objections to it had been lodged.

Ordinance  
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Taxes.

*Sheriff to pay over all moneys to collector.*

12. And be it further enacted, that the said sheriff shall duly pay and hand over to the collector of taxes all such monies as shall, from time to time, be levied or received by him in virtue of this ordinance, and of the duties thereby imposed upon him ; but the said sheriff shall be entitled, and he is hereby authorized to retain and deduct out of all monies received by him as aforesaid, and also, in case of seizure or seizures and sale, the reasonable cost and charges thereof, just as if the certificate lodged as aforesaid were an ordinary writ of execution.

*Collector may proceed by action.*

13. And be it further enacted, that nothing herein contained shall be construed so as to preclude the said collector of taxes from proceeding to recover any arrears of the said taxes in any case in which he shall so think proper, by action, instead of by distress and sale.

*Proviso of ordinance 57, section 4, repealed.*

14. And be it further enacted, that the proviso contained in the concluding clause of section 4 of ordinance No. 57, shall not apply to the case of any person from whom any arrears of any of the taxes mentioned in this ordinance shall be demanded.

*Limitation of actions growing out of this ordinance.*

15. And be it further enacted, that all actions or suits which shall be brought against any person or persons employed in the execution of this ordinance, for any thing done in pursuance thereof, shall be commenced within six calendar months next after the cause of action shall have arisen, and not afterwards ; and no suit or process shall be sued out for the commencement of such action or suit, until one calendar month next after a notice in writing shall have been delivered to, or left at, the usual place of abode of such person, by the intended plaintiff, his attorney, or agent, in which notice shall be stated, clearly and explicitly, the cause or causes of action, the name and place of abode of the intended plaintiff, and of his attorney or agent, if any, and no evidence shall be received at the trial of any cause or causes of action, other than such as are contained in such notice, and the intended defendant on whom any such notice shall have been served may, at any time before the expiration of the said calendar month, tender amends to the intended plaintiff, his attorney or agent, and in case such amends are not accepted, may plead such tender in bar of any action or suit to be brought against him, grounded on such suit or process, and the defendant in any such action or suit may plead a general defence, and also such tender, and may give this ordinance and the special matter in evidence at any trial to be had thereon.



## SCHEDULE No. 1.

Ordinance  
No. 1, 1841Arrear  
Taxes.

Mr. A. B.

Sir,—You are hereby required to take notice, that the following arrears of the assessed taxes, amounting in all to the sum of £ ————— are now due and owing by you in virtue of your premises, (here describe the premises.)

1833 1834 1835 1836 1837 1838 1839 1840

Hearth Tax,	-	-						
Waterleading,	-	-	-					
Private ditto,	-	-	-					
&c.	&c.	-	-	-				
&c.	&c.	-	-					

Total £ ———

And you are further required, within thirty-one days from the date of the service of this notice, to pay the above amount to me, or, in case you shall object to the same, or to any part thereof to lodge your objections in writing at my office, stating fully the particular items which you dispute, and the grounds and reasons on which you so dispute them. And in case the said sum of £ ——— now demanded, shall not be so paid, or otherwise in case such objections shall not be duly lodged within the said term of thirty-one days, the matter will, in pursuance of ordinance No. 1, 1841, be placed in the hands of the high sheriff, in order to be levied summarily by distress and sale.

Given under my hand, this ——— day of ——— 1841

R. R. Collector of Taxes.

## Schedule No. 2.

To the High Sheriff.

Tax Office, Cape Town,

Sir,—In obedience to the provisions of Ordinance No. 1, 1841, I hereby certify, that Mr. A. B. of ———, is now chargeable with the sum of £ ——— for arrears of taxes in the said ordinance mentioned, which sum I hereby authorise you to levy. And I further certify, that no part of the said sum has been objected to.

Dated this ——— day of ——— 1841.

R. R. Collector of Taxes.

## Schedule No. 3.

To the High Sheriff.

Tax Office, Cape Town,

Sir,—In obedience to the provisions of Ordinance No. 1, 1841, I hereby certify, that Mr. A. B. of ———, is now chargeable with the sum of £ ——— for arrears of taxes in the said ordinance mentioned, which sum I hereby authorize you to levy. And I further certify, that the sum of £ ———, part

Ordinance  
No. 1, 1841.

Arrear  
Taxes.

of the above sum, (or I further certify, that the whole of the said sum,) (as the case may be) has been objected to, and that I have disallowed the objections made thereto.

R. R. Collector of Taxes.

*God save the Queen !*

Given at the Cape of Good Hope, this 22d day of March 1841.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk of the Legislative Council.

No. 2, 1841.—Signed, Geo. Napier.

*Ordinance, for applying a sum not exceeding £157,944 8 6,  
for the service of the year 1841. (1)*

Ordinance  
No. 2, 1841.

Estimates  
1841

WHEREAS the expenditure required for the service of the government of this colony for the year 1841, has been estimated at the sum of one hundred and fifty-seven thousand nine hundred and forty-four pounds, eight shillings, and four pence :

Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that a sum, not exceeding one hundred and fifty-seven thousand nine hundred and forty-four pounds, eight shillings, and four pence, be charged upon the revenue of the said colony, for the service of the year 1840, and applied in the manner following, that is to say :—

*For the ordinary expenditure*, a sum not exceeding seventy-eight thousand three hundred and seventy-two pounds and ten shillings, in the manner set forth in the two schedules hereunto annexed, marked No. 1, A. and B. respectively.

*For the fixed contingent expenditure*, a sum not exceeding thirty-one thousand nine hundred and two pounds, sixteen shillings, and three pence, in the manner set forth in the two schedules hereunto annexed, marked No. 2, C. and D. respectively.

*For the unfixed contingent expenditure*, a sum not exceeding twenty-four thousand four hundred and seventy-nine pounds and four shillings, in the manner set forth in the two schedules hereunto annexed, marked No. 3, E. and F. respectively.

*For the local expenditure in the western division of the*

(1) Sanctioned and allowed by the Queen,—*vide* Proclamation 20th July 1843,—this is the first Expenditure Ordinance publicly sanctioned by Her Majesty.

colony, a sum not exceeding four thousand four hundred and fifty-four pounds and seven shillings, in the manner set forth in the schedule hereunto annexed, marked No. 4.—And

For the supplementary expenditure, a sum not exceeding eighteen thousand seven hundred and thirty-five pounds, eleven shillings, and one penny, in the manner set forth in the two schedules hereunto annexed, marked Nos. 5 and 6 respectively.

Ordinance  
No 2, 1841

Estimates  
1841

#### SCHEDULE No. 1.—(A.)

##### Ordinary Expenditure.—Western Districts.

For the Governor and Private Secretary,	-	£5300	0	0
Colonial Office,	-	3120	0	0
Council Office,	-	527	0	0
Treasury,	-	1650	0	0
Registry of Deeds,	-	880	0	0
Audit Office,	-	1260	0	0
Stamp Office,	-	245	13	4
Surveyor-General and Civil Engineer's Office,	-	1655	0	0
Secretary to the Land Board,	-	200	0	0
Customs' Department, including Port Elizabeth,	-	3715	12	0
Port Office, Table Bay,	-	1092	10	0
Tax and Tithes' Department,	-	702	0	0
Government Bank,	-	1413	15	0
Printing Office,	-	385	0	0
Post Offices,	-	921	15	0
Hospital Somerset,	-	663	0	0
Pauper Establishment,	-	155	0	0
Vaccine Institution,	-	50	3	9
Supreme Court,	-	6510	0	0
Master's office,	-	1970	0	0
Attorney-general's office,	-	1390	0	0
Sheriff's office,	-	750	0	0
Police office, town gaol, and house of correction,	-	1401	10	0
Civil establishment, Cape Division,	-	2101	10	0
Stellenbosch ditto,	-	1130	0	0
Worcester ditto,	-	1468	0	0
Clanwilliam ditto,	-	635	0	0
Swellendam ditto,	-	1485	0	0
George ditto,	-	935	0	0
Beaufort ditto,	-	715	0	0
Gaols in the country,	-	2413	10	0
Church establishment,	-	5471	0	5
Free schools (throughout the colony),	-	2500	0	0
Pensions, civil, (ditto)	-	9213	5	1
Ditto on church establishment, (ditto)	-	658	0	0
Ditto, military and Hottentot captains, (ditto)	-	1040	11	9
Colonial agency,	-	200	0	0

Total, £65,923 3 6

#### SCHEDULE No. 2.—(C.)

##### Fixed Contingencies.—Western Districts.

For the governor, stationery,	-	£100	0	0
Colonial office, petty expenses,	-	£ 41	13	9
Stationery and bookbinding,	-	200		
Newspapers,	-	35		
Despatch bags, &c.	-	8		
	-		284	13 9



Ordinance No. 2, 1841.	Council office, stationery and bookbinding,	.	10	0	0
	Treasury, stationery and bookbinding,	.	50	0	0
Estimates 1841.	Deeds' Registry, ditto, ditto,	.	155	0	0
	Audit office, ditto, ditto,	.	70	0	0
	Stamp office, stationery and paper for stamps,	.	150	0	0
	Surveyor general's office, stationery,	£30			
	Travelling expenses,	200			
		—	230	0	0
	Civil engineer's office, stationery,	40			
	Allowance for government gardens,	200			
	Ditto for travelling expenses,	50			
	Ditto for removal and shipment of stores,	120			
		—	410	0	0
	For the Customs, compensation to sub-collector at Port Elizabeth,	100			
	Stationery, Bookbinding, &c.	99			
		—	199	0	0
	Port Office, petty expenses and stationery,	20			
	Tax and tithes' office, stationery,	30	0	0	
	Government bank, stationery and petty expenses,	112	0	0	
	Printing office, petty expenses and stationery,	124	0	0	
	Post office, stationery,	50			
	Supply and repairs of bags, &c.	100			
	For the conveyance of Mails,	4034	9	0	
	Gratuities to masters of vessels,	50			
	Candles, twine, coolie-hire, &c , and jackets and hats for Letter-carriers,	80	2	6	
		—	4314	11	6
	Somerset hospital, miscellaneous,	2555	0	0	
	Pauper establishment, miscellaneous,	700	0	0	
	Leper institution, miscellaneous,	1200	0	0	
	Medicines for country districts	100	0	0	
	Supreme court, stationery, and bookbinding,	70			
	Petty expenses,	27			
		—	97	0	0
	Master's office, stationery and bookbinding,	75	0	0	
	Attorney-general's office, do. do.	15	0	0	
	Sheriff's office, do. do.	30	0	0	
	Police department, provisions and clothing for convicts, in Cape Town, Cape Division, and Robben Island,	3200			
	Stationery and bookbinding,	50			
		—	3250	0	0
	Superintendent general of education,—stationery and book-binding,	15	0	0	
	House-rent to civil commissioner, Cape division,	100	0	0	
	Travelling expenses of civil commissioners, in collecting arrear taxes,	213	0	0	
	Transport and lodging of circuit judges,	1086	0	0	
	Conveyance of district posts,	465	0	0	
	Provisioning and clothing of convicts and prisoners in the districts,	2500	0	0	
	Transport and maintenance of lepers in ditto,	180	0	0	
	Stationery for country districts,	400	0	0	
	Expenses of witnesses in criminal cases,	1000	0	0	
	Petty prison expenses,	150	0	0	
	Horse-hire for serving summonses, for district courts,	557	0	0	
	Transport of convicts, &c.	515	0	0	
	Postages, Western Divisions,	68	10	0	
	Inquests,	135	0	0	
	Medical expenses,	90	0	0	

Expenses of corporal punishments under sentence of district courts,	82	10	0	Ordinance
Bookbinding in districts,	-	25	0	No. 2, 1840.
				Estimates
Total, £	21,863	5	3	1841

### SCHEDULE No. 3.—(E.)

#### Unfixed Contingencies.—Western Districts.

For the governor, travelling expenses,	-	£300	0	0
Colonial Office,—Supply of the government gazette, and extra printing,	. 580			
Presents to border chiefs, paid through the colonial office,	50			
Sundry miscellaneous expenses,	. 8			
Fuel,	. 15			
	—	653	0	0
Council Office,—Fuel, &c.	. .	5	0	0
Treasury,—Petty expenses, fuel, &c.	. .	3	0	0
Deeds' Registry,—Ditto, ditto,	. .	5	0	0
Audit Office,—Petty expenses,	. .	15	0	0
Surveyor General's Office,—For re-surveys of lands in the Eastern Districts,	. 800			
For ditto in the western districts,	. 300			
Fuel and petty expenses,]	. 9 10			
	—	1109	10	0
Civil Engineer's Department,—For ordinary repairs and alterations.				
Repairs to custom-house, searcher's office, and boat-shed,	£120			
Ditto to town prison,	. 409			
Alterations to ditto,	. 670			
Repairs to public offices,	. 200			
Ditto to colonial office,	. 50			
Ditto to government house,	. 150			
Ditto to stables,	. 20			
Ditto to gardener's cottage, walls and fences,	. 105			
Ditto to public buildings in caledon-square,	. 200			
Ditto to lodge for paupers,	. 100			
Erection of fence to enclose the yard of ditto, &c.	. 30			
Repairs to light-house, signal stations and port office,	. 150			
Ditto and alterations to Somerset hospital,	. 200			
Ditto to free school in keerom-street,	. 20			
Ditto and alterations to police station house,	. 233			
Ditto to buildings on Robben Island,	. 50			
Supply and repairs of furniture.				
For public offices,	. 100			
For government house,	. 30			
For supplies.				
Implements,	. 150			
400 lime bags,	. 60			
Coals for forage,	. 30			
Oil and cotton for light house,	. 120			
Keep of horse and cart,	. 30			
Repairs to government and circuit wagons,	. 250			
Winding clock in public offices,	. 8			
	—	3485	0	0
Customs' Department,—Miscellaneous,	. 100	0	0	0
Port Office,—Repairs of boats, &c.	. 40	0	0	0
Tax and Tithes' Office,—Petty expenses,	. 6	0	0	0
Government Bank,—Fuel,	. 5	0	0	0
Printing Office,—Repairs to presses, &c.	. 18	0	0	0
Somerset Hospital,—Clothing and furniture,	. 250	0	0	0

Ordinance No. 2, 1841.	<i>Pauper Establishment</i> ,—Clothing and furniture,	.	400	0	0
	<i>Supreme Court</i> ,—Fuel, light, and miscellaneous,	.	22	0	0
	<i>Master's Office</i> ,—Fuel and sundries,	.	5	0	0
Estimates 1841	<i>Attorney-General's Office</i> ,—Fuel,	.	5	0	0
	<i>Sheriff's Office</i> ,—Summoning jurors and witnesses,	.	1650		
	Expenses of criminal punishments,	.	200		
	Fuel,	.	3		
			1853	0	0

*Police Department*.—Town Prison, &c., and House of Correction.

Bedding for convicts,	.	£150			
Ditto for prisoners,	.	100			
Fuel,	.	100			
Clothing for house of correction,	.	50			
Smith's work,	.	40			
Petty requisites,	.	150			
Medicines,	.	15			
Utensils,	.	15			
Coir rope,	.	75			
Implements of punishment, handcuffs, &c.	.	30			
Passage, victualling, &c. of convicts forwarded by Sea,	.	200			
Boat, coach, wagon, and horse-hire,	.	75			
Police surgeon, allowance for forage,	.	27	7	6	
Expenses for advertisements,	.	6			
Scales and weights for the town prison,	.	6			
Coals for the police court room,	.	5			
Miscellaneous,	.	13			
			1057	7	6

*Robben Island Establishment.*

Medicines,	.	15			
Materials, working implements, and gunpowder for quarries,	.	268			
Ditto for making shoes and caps,	.	25			
Fuel for lime works,	.	400			
Bedding,	.	60			
Horses, Forage for 10	.	270			
— To re-place 4	.	80			
Hire of transport and coolies,	.	60			
Allowance to the commandant for superintending the supplies of provisions,	.	55			
Ditto to ditto for forage,	.	27	7	6	
Ditto to a second overseer,	.	45			
Ditto to two convict overseers,	.	6			
Ditto to storekeeper, civil engineer's Department, for sale of lime,	.	35			
Repairs to Harness,	.	5			
Ditto and expenses of island boat,	.	130			
			1481	7	6

*School Establishment*,—travelling expenses to superin-  
tendent General,

Transport of ditto.	.	100			
Additional, for government free schools,	.	1000			
<i>Miscellaneous.</i>			1150	0	0
In aid of schools, &c. not on the govt. establishment,	.	900			
S. A. College, annual contribution,	.	200			
Ordinance storekeeper, for superintending receipt and issue of private gunpowder in Cape Town, to 30th June,	.	50			
Probable expenditure of colonial agent in England, under authority of colonial department,	.	1000			



Pensions to persons wounded or worn out in the service of the colony, or their families, (western and eastern divisions,)	250
Allowance to the chief Waterboer, for schools at Griqua Town, and for conveyance of letters, &c. (paid in Cape Town,)	155
Interest on purchase money of station house for the police of Cape Town,	171

Ordinance  
No. 2, 1841.  
Estimates  
1841

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2726 0 0

*Cape Division.*

Horse-hire to civil commissioner on other duty than collecting taxes,	27
Forage allowance to field-cornet of the downs, &c.	15
Ditto to horses on the gaol establishment,	150
Shoeing and saddlery for ditto on ditto,	15
Repairs of boats at Simon's Town and Saldanha Bay,	30
Necessaries for gaols, prisoners, &c.	55
Horse-hire to field-cornets on public service,	30
Medical expenses,	30
Coals for court room,	3
Hire of free-school and school of industry at Wynberg,	36
Allowance to two constables, (attached to the Magistrate of Cape Town) not provided with lodgings, at 9l. each,	18
For the purchase of a horse,	18 15
Stabling, forage, &c.	27

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454 15 0

*Stellenbosch.*

Articles for gaols, prisoners, and convicts,	50
Putting convicts in irons, &c.	60
Horse-hire for civil commissioner on other duties than collecting taxes,	15
Expresses and horse-hire to field-cornets on public service,	150
Interpretations, and medical attendance circuit court,	30
Ditto ditto at the Paarl,	36
Travelling expenses of clerk of the peace,	25
Repairs of public buildings,	150
Ditto of gaols,	100
Temporary clerk to clerk of the peace during sessions of circuit courts,	7 10

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623 10 0

*Worcester.*

Necessaries for gaols, prisoners, and convicts,	100
Supply and repair of tools, putting on and taking off convicts' irons,	60
Interpretations and medical attendance, circuit court,	25
Repairs of buildings,	80
Repairs to gaol,	65
Horse-hire to field-cornets on public service,	100
Expenses of justice of the peace and hire of lock-up house at Tulbagh,	25

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455 0 0

*Clanwilliam.*

Necessaries for gaols, prisoners, and convicts,	30
Putting on and taking off convicts' irons, &c.	22 10
Horse-hire, &c. to clerk of the peace,	10
Interpretations, and medical attendance circuit court,	20

Ordinance No. 2, 1841.	Horse and wagon hire to civil commissioner on other duties than collecting taxes,	-	15		
	Horse-hire to field-cornets on public duty	-	30		
Estimates 1841	Repairs of public buildings,	-	30		
				157	10 0

*Swellendam.*

Necessaries for gaols, prisoners, and convicts,	-	45			
Supply of tools and irons to convicts, &c.	-	75			
Interpretations and medical attendance, circuit court,	-	40			
Expenses and horse-hire for civil commissioner on other duty than collecting taxes,	-	25			
Horse-hire for field-cornets on public duty,	-	100			
Ditto to magistrates, clerks of the peace, district sur- geon, and Magistrate's clerk at Caledon,	-	61			
Repairs of buildings,	-	67			
Ditto of Leper institution,	-	18			
Ditto to gaol,	-	25			
Temporary clerk to clerk of the peace during sessions of circuit courts,	-	15			
			471	0 0	

*George.*

Necessaries for gaol and convicts,	-	30			
Repairs of public buildings and gaol,	-	70			
Interpretations circuit court,	-	20			
Kafir interpretations,	-	20			
Horse-hire to field-cornets on public duty,	-	80			
Supply and repair of tools, and putting on and taking off convicts' irons,	-	12			
Expenses and horse-hire to civil commissioner on other duties than collecting taxes,	-	20			
Hire of a building for lepers,	-	12			
			264	0 0	

*Beaufort.*

Necessaries for gaols, prisoners, and convicts, supply and repair of tools, and putting on and taking off convicts' irons,	-	50			
Interpretations and medical attendance, circuit court,	-	25			
Horse-hire to field-cornets on public service,	-	80			
Repairs of buildings,	-	60			
Ditto of gaol,	-	30			
Expenses and horse-hire for civil commissioner on other duties than collecting taxes,	-	40			
Horse-hire for district surgeon on public duty,	-	20			
			305	0 0	
For conveyance of gazettes, &c. to the field-cornetcies, and the maintenance of public watering and baiting places—					
The Cape division,	-	121			
Stellenbosch ditto,	-	33			
Worcester ditto,	-	150			
Clanwilliam ditto,	-	61			
Swellendam ditto,	-	161			
George ditto,	-	150			
Beaufort ditto,	-	96			
			742	0 0	
			Total £ 18,167	0 0	

## SCHEDULE No. 4.

*Local Expenditure.—Western Districts*Ordinance  
No. 2, 1841.Estimates  
1841.*Roads and Ferries.—Cape Division.*

Repairs of toll roads,	£1500		
Ditto to Rozeboom and Malan's Hoogten,	100		
Ditto streets, &c. Simon's Town,	107		
Ditto upper and lower toll-houses,	40		
Ditto toll-house, Muizenburg,	5		
		1752	0 0

*Stellenbosch.*

Repairs of Fransche Hoek and Bot River roads,	150		
Ditto to bridges, &c. at Fransche Hoek,	25		
Repairs to Sir Lowry Cole's Pass,	245		
Ditto Houw Hoek,	160		
Ditto to bridge over the Eerste River,	25		
		605	0 0

*Clanwilliam.*

Repairs of ferry boat,		2	10 0
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*Swellendam.*

Repairs of main post road through the division,	245		
Ditto to ferry boats and buildings,	27		
Ditto to four bridges,	15		
Formation of new road over the Platte Kloof,	245		
Construction of a floating bridge at Breede River,	542 17		
		1074	17 0

*George.*

Repairs to Cradock's Kloof,	640		
Ditto of main road through Attaqua's and Lange Kloofs,	350		
Repairs to ferry boats,	30		
		1020	0 0
		Total	£4454 7 0

## SCHEDULE No. 5.

*Supplementary Expenditure.—Western Districts.**Colonial Office.*

Salary to a scavenger, for the public offices, 30l., 9 months,	£22 10		
Ditto to a person for closing the gates of ditto at night,	10 0		
		32	10 0

*Council Office.*

Increase of salary to messenger,		9	0 0
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*Treasury.*

Ditto ditto of chief clerk,		30	0 0
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*Audit Office.*

Ditto ditto to ditto,		20	0 0
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*Deeds' Registry.*

Ditto ditto to chief clerk,	£70		
Ditto Ditto to 1st ditto,	40		
Salaries to three extra clerks,	240		
Ditto to a temporary clerk, at 100l. 10 months,	83 6 8		
Ditto to Messenger,	40		
		863	4 7

*Surveyor-General's Office.*

Increase of salary to assistant surveyor general,	50		
Ditto to chief clerk,	20		
Ditto to 2d ditto,	15		
Ditto to draftsman,	40		
Ditto to messenger,	5		



Ordinance No. 2, 1811.	Salary to 2nd assistant surveyor-general,	.	300		
	Ditto to an additional clerk,	.	90		
				520	0 0
Estimates 1841	<i>Civil Engineer Office.</i>				
	Salary to assistant Civil Engineer,	.	250		
	Ditto to temporary clerk,	.	40		
	Increase of ditto to book and storekeeper,	.	25		
				315	0 0
	<i>Customs' Department.</i>				
	Increase of salary to collector,	.		300	0 0
	<i>Port Office.</i>				
	Salary to extra boatman,	-	50		
	Increase of ditto to boat's crew, signalman at the port office, and messenger,	-	51 10		
	For carriage of provisions to signal station on the hill,	-	18 5		
				119	15 0
	<i>Tax and Tithes' Office.</i>				
	Salary to an extra clerk,	.	75 0		
	Ditto to 2 temporary clerks, 6 months, at £ 75 each,	-	75 0		
	Increase of ditto to clerk in transfer office,	-	15 0		
				165	0 0
	<i>Government Bank.</i>				
	Increase of ditto to certain of its officers,	-		287	18 4
	<i>Printing Office.</i>				
	Ditto ditto to superintendent,	-	30		
	Ditto ditto to two pressmen, at 15 <i>l.</i> each,	-	30		
	Salary to an additional compositor,	-	60		
	Ditto an apprentice,	-	18		
				138	0 0
	<i>Post Office.</i>				
	Increase of salary to clerks, letter carriers, and country postmasters, western division,	-	131 15		
	Two agents, at Langekloof (15 <i>l.</i> ), and Zuur Anys (10 <i>l.</i> )	-	25		
	Allowance for ferrying over mails,—Gouritz River, (12 <i>l.</i> ) —Buffeljachts, (8 <i>l.</i> )—Vette River, (9 <i>l.</i> )—Kafferkuils, (10 <i>l.</i> )—the three latter from 1st May,	-	30		
				186	15 0
	<i>Somerset Hospital.</i>				
	Increase of salary to resident surgeon,	-	100		
	Ditto assistant ditto,	-	80		
	Ditto of ditto to steward,	-	22 10		
	Salary of lunatic matron,	-	13 10		
	Ditto to messenger,	-	18		
	Ditto of additional sick attendant,	-	22 10		
				256	10 0
	<i>Colonial Medical Committee.</i>				
	Salary to the president,	-		52	10 0
	<i>Robben Island.</i>				
	Salary to a medical officer,	-		91	5 0
	<i>Police Office.</i>				
	Increase of ditto to first clerk,	-	40		
	Salary to keeper of house of correction,	-	45		
	Ditto to matron of ditto,	-	12		
				97	0 0

*New Police Establishment.*

		Ordinance No. 2, 1841.
Salary to inspector,	200	
Ditto to four sub-inspectors, at 80l.	320	
Ditto to four sergeants, at 61l. 3s.	244 12	Estimates 1841.
Ditto to thirty-seven constables, at 52l.	1924	
For forty-five sets of uniform,	342	
Arms, staves, and lanterns,	19	
Lamp oil, cotton, &c.	42	
Forage for police horses,	255	
New saddles and bridles,	30	
Farriery, repairs of saddles, &c.	60	
Two stable attendants, at £22. 10s. each,	45	
Buckets, baskets, shovels, &c.	3	
Glaziers' work and lanterns for station house and stable,	20	
Chairs for securing refractory prisoners,	20	
Allowance to superintendent for forage for two horses,	54 15	
	<hr/>	3579 7 0

*Cape District,—Civil Commissioner's Office.*

Increase of salary to the clerk of the magistrate's court,	60
Salary to an extra clerk,	75
Ditto to ditto in clerk of the peace office,	20
Ditto resident surgeon, Simon's Town,	27 10
Ditto to superintendent of waterworks, ditto	39 10 10
Ditto to two superintendents of Cape flats,	120
House-rent to resident justice of the peace at Simon's Town,	50
Increase of salary to gaoler at Simon's Town, at 6l. 6 months,	3
Ditto ditto to police constable, ditto, at £3, 6 months,	1 10
Ditto to two senior constables, at £4 10 each, 6 months,	4 10

*Church Establishment.*

Ditto to minister of the Dutch reformed church at Wynberg,	200
Ditto to clerk at ditto,	30
Ditto to two episcopal ditto, at Wynberg and Rondebosch,	200
Ditto to two Clerks at ditto,	40
Allowances to field-cornets, &c. in employment,	378 15
	<hr/>
	1249 15 10

*Stellenbosch Division.*

Salary to district surgeon,	100
Allowances to field-cornets, &c. in employment,	341 5
	<hr/>
	441 5 0

*Worcester ditto.*

Allowances to field-cornets, &c. in employ,	247 10 0
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*Clanwilliam ditto.*

Increase of salary to civil commissioner,	60
Ditto to ditto of clerk to do.,	20
Salary to an extra clerk,	80
Do. to district postmaster,	3
Ditto to district surgeon,	100
Ditto to ferry-boatman,	7 10
Increase of salary to first constable, at £2, 6 months,	1
Ditto ditto to 2 ditto of 2d class, at £1. 10. each, 6 months,	1 10
Ditto ditto to 4 ditto of 3d class, at £3. each, 6 months,	3
Allowances to field-cornets, &c. in employment,	285
	<hr/>
	564 0 0

Ordinance  
No. 2, 1841.

*Swellendam Division*

Estimates  
1841

Salary to two ministers of Dutch reformed church at Riversdale and Bredasdorp, .	400		
Ditto two clerks to ditto; .	60		
Increase of salary to four constables, at £6 each, 6 months, .	12		
Allowances to field-cornets, &c. in employment, .	360		
		832	0 0

*George ditto.*

Increase of salary to civil commissioner, .	60		
Ditto ditto to clerk to do. .	20		
Salary to an extra clerk, .	80		
Ditto to justice of the peace, Long Kloof, .	100		
Salary, &c. to two overseers of crown forests, .	224		
Allowances to field-cornets, &c. in employment, .	180		
		664	0 0

*Beaufort ditto.*

Increase of salary to civil commissioner, .	60		
Ditto to clerk to do. .	20		
Salary to an extra clerk, .	80		
Ditto to district surgeon, .	150		
Allowances to field-cornets, &c. in employment, .	266	5	
		576	5 0

*Wynberg.*

TEMPORARY MAGISTRACIES.

Hire of offices, and additional buildings for police, .	89	10	
Salary to clerk of the peace, .	100		
Ditto to magistrate's clerk, .	80		
Ditto to two constables, at £31 10 each, .	63		
Increase of do. to police constable acting as gaoler, .	8		
Supply of platform, railing, &c. for court room, .	20	10	6
		361	0 6

*Malmesbury.*

Hire of buildings, .	81		
Salary to clerk of the peace, .	100		
Ditto to magistrate's clerk, .	80		
Ditto to gaoler, .	36		
Ditto to three constables, at £31 10 each, .	94	10	
Conveyance of record books for inspection of supreme court, .	15		
		406	10 0

*Paarl.*

Hire of buildings, .	55	10	
Salary to clerk of the peace, .	100		
Ditto to magistrate's clerk, .	80		
Ditto to gaoler, .	36		
Ditto to three constables, at £31 10. each, .	94	10	
Allowance to gaoler and constables not provided with lodging, .	36		
		402	0 0

*Caledon.*

Hire of buildings, .	25		
Salary to clerk of the peace, .	100		
Ditto to magistrate's clerk, .	80		
Ditto to gaoler, .	36		
Ditto to one constable, and additional salary to two others, .	54	10	
Allowance to constables not provided with lodging, .	18		
		313	10 0

Total £12,722 13 4



## SCHEDULE No. 1.—(B.)

*Ordinary Expenditure.—Eastern Districts.*

Lieutenant-governor's establishment,	.	.	2000	0	0
Civil Establishment, Albany division,	.	.	1580	0	0
Uitenhage ditto,	.	.	1804	0	0
Somerset ditto,	.	.	635	0	0
Craddock ditto,	.	.	390	0	0
Graaff-Reinet ditto,	.	.	1080	0	0
Colesberg ditto,	.	.	410	0	0
Post office establishment,	.	.	161	0	0
Gaols and police ditto,	.	.	1557	0	0
Church ditto,	.	.	2832	6	6
Total			£ 12,449	6	6

Ordinance  
No. 2, 1841.Estimates  
1841

## SCHEDULE No. 2.—(D.)

*Fixed Contingencies.—Eastern Districts.*

House-rent for lieutenant-governor,	.	.	300	0	0
Ditto for circuit judges,	.	.	120	0	0
Ditto for two civil commissioners,	.	.	200	0	0
Ditto for minister, Kat River,	.	.	50	0	0
Ditto for chaplain, Port Elizabeth,	.	.	40	0	0
Office rent for lieutenant-governor,	.	.	70	0	0
Transport for ditto,	.	.	100	0	0
Ditto for circuit judges,	.	.	423	16	0
Ditto for civil commissioners, medical officers, and field-cornets,	.	.	315	0	0
Maintenance and clothing of convicts and prisoners,	.	.	4135	0	0
Conveyance of convicts and prisoners,	.	.	455	0	0
Ditto of lepers and destitute persons,	.	.	105	0	0
Petty prison requisites,	.	.	215	0	0
Inquests,	.	.	165	0	0
Expenses of witnesses in criminal cases in district courts,	.	.	1200	0	0
Horse-hire, in summoning ditto,	.	.	615	0	0
Postage on official letters,	.	.	173	0	0
Maintenance and clothing of lepers, &c.	.	.	500	0	0
Hire of buildings for ditto,	.	.	105	0	0
Bookbinding,	.	.	34	10	0
Stationery,	.	.	600	0	0
Horse allowance to justice of the peace, Fort Beaufort,	.	.	18	5	0
Medicines for gaols,	.	.	100	0	0
Total			£ 10,039	11	0

## SCHEDULE No. 3.—(F.)

*Unfixed Contingencies.—Eastern Districts.**Albany Division.*

House-rent for minister at Bathurst,	.	.	30		
Ditto for extra police, Graham's Town,	.	.	45		
Ditto for police at Fort Beaufort,	.	.	18		
Necessaries for gaols, prisoners, and convicts, supply and repair of convicts' tools, putting on and taking off irons of convicts, repairs of roads and tools for do.	.	.	300		
Execution of criminal sentences,	.	.	20		
Interpretations before circuit court,	.	.	20		
Ditto magistrate's court, from the Dutch,	.	.	30		
Medical attendance in court,	.	.	30		
For the conveyance of extra official despatches,	.	.	5		
Incidental petty expenses,	.	.	50		

Ordinance	Presents for Kafirs and other native tribes,	200		
No. 2, 1840.	Towards erection of public buildings, Fort Beaufort,	400		
Estimates	Repairs to ditto, Graham's Town,	1000		
1841	Rations for destitute in the division,	50		
	Conveyance of mail from Graham's Town to Salem,	10		
			2208	0 0

*Uitenhage.*

Allowance to ordnance storekeeper for superintending the receipt and issue of private gunpowder at Port Elizabeth, to 30th June,	18		
House-rent for police and convicts at ditto,	81		
Rent of the port office, at ditto,	12		
Ditto of custom house at ditto,	60		
Necessaries for gaols, &c.	50		
Execution of criminal sentences,	30		
Interpretations and medical attendance before circuit courts,	30		
For the conveyance of extra official despatches,	35		
Incidental petty expenses,	50		
Officer of health at Port Elizabeth for boarding Vessels,	15		
Repairs to public buildings,	250		
Projected repairs of the road from the head of the Kromme River to Uitenhage and Port Elizabeth,	275		
Tolls, ferries, canals, and bridges at Uitenhage,	15		
Allowance to two constables and two boatmen, at Port Elizabeth, not provided with Lodgings, at £9,	36		
Temporary clerk to clerk of the peace during sessions of circuit court,	15		
		972	0 0

*Somerset.*

Necessaries for gaols, &c.	50		
Execution of criminal sentences,	10		
Interpretations and medical attendance, circuit courts,	25		
For the conveyance of extra official despatches,	5		
Incidental petty expenses,	25		
Repairs of buildings,	110		
		225	0 0

*Craddock.*

Necessaries for gaols, &c.	50		
Execution of criminal sentences,	15		
Conveyance of extra official despatches,	10		
Incidental petty expenses,	50		
Additions to prison and offices,	600		
Interpretations and medical attendance, circuit courts,	20		
House-rent to police, not provided with Lodgings,	15		
		760	0 0

*Graaff-Reinet.*

House-rent for gaoler,	18		
Necessaries for gaols, &c.	50		
Execution of criminal sentences,	23		
Interpretations and medical attendance, circuit courts,	30		
For the conveyance of extra official despatches,	25		
Incidental petty expenses,	50		
Repair of buildings,	100		
Ditto ferries, canals, dams, and bridges	55		
Allowance to two attendants on sick prisoners,	2 8		
		353	8 0

*Colesberg.*

Rent for public offices and dispensary,	57	12
Ditto of house for gaoler,	16	4





Ordinance  
No. 2, 1841

*Cradock Division:*

Salary to district surgeon,	.	150	
Ditto to messenger,	.	25	
Ditto to two additional constables,	.	56	10
Allowances to field-cornets, &c. in employment,	.	133	
			364 10 0

*Graaff-Reinet ditto.*

Salary to district surgeon,	-	150	
Superintendence and repairs of town clock,	-	22	10
Superintendent of dams and canals,	-	45	
Allowances to field-cornets, &c. in employment,	-	190	
			407 10 0

*Colesberg ditto.*

Salary to two additional constables,	-	56	10
Ditto to messenger,	-	25	
Ditto to market master,	-	22	10
Ditto to district surgeon,	-	150	
Allowances to field-cornets, &c. in employment,	-	212	10
			466 10 0

*Post Office.*

Salary to postmaster at Fort Beaufort,	.	12	
Ditto to ditto at Colesberg,	.	25	
Increase of salary to certain postmasters,	.	96	
Salary to agent at Galgebosch,	.	10	
Allowances for ferrying over mails at Sundays River,	.	15	
			158 0 0
Salary to engineer, for superintending the formation and repairs of roads,	.	200	0 0

*Kafir Police.*

Provisions, pay and clothing,	.	1300	0 0
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AGENT GENERAL'S DEPARTMENT.

Salary to agent general (£ 350 already estimated on lieutenant-governor's establishment,)	150	
Allowance of house-rent to ditto,	50	
Salary to clerk and interpreter,	200	
Ditto to assistant interpreter,	50	
Ditto to diplomatic agent to Gaika tribe,	300	
Ditto ditto T'Slambie and Congo tribes,	300	
Ditto ditto Tambookies,	150	
Ditto ditto Crieli's Kafirs,	150	
Ditto to interpreter to agent to Gaika tribe,	27	
Forage allowance to kafir interpreter, Graham's Town,	18	15
		1395 15 0

Total £6,003 17 9

*God save the Queen!*

Given at the Cape of Good Hope, this 27th day of April 1841.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk of the Legislative Council.

No. 3, 1841.—Signed, George Napier.

*Ordinance for re-establishing the Toll at Kaayman's Gat, until the first day of February 1855* <sup>(1)</sup> <sup>(2)</sup>.

Ordinance  
No. 3, 1841

Toll Kaay-  
man's Gat.

*Preamble.—Casper Willem Heunis indemnified.*

WHEREAS a certain ordinance, duly made and published in this colony, for continuing the toll at Kaayman's Gat, in the district of George, to wit: the ordinance No. 12, 1837, has expired. And whereas it is expedient that the said toll should be re-established, or further continued, and that one Casper Willem Heunis, the now contractor for the same, should be indemnified in respect of the receipt of such sums of money as have from time to time been received by him, by way of toll since the expiration of the ordinance hereinbefore mentioned. Be it enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that no action, suit, or proceeding in law, of any kind whatsoever, shall be maintainable in any of the courts of this colony, against the said Casper Willem Heunis, or any person who shall have acted for him, or by his authority, in respect of the demanding, receiving, or taking any sums of money by way of such toll as aforesaid, (provided no such sums have been greater than the regular toll, as in the schedule hereunto annexed, set forth,) at any time between the day on which the hereinbefore mentioned ordinance expired, to wit, the first day of February 1840, and the day of the passing of this ordinance.

*Tolls in Schedule to be taken.*

2. And be it further enacted, that from and after the passing of this ordinance, it shall and may be lawful for such person or persons as His Excellency the Governor shall, from time to time, authorize and appoint, and for such other person or persons, as the person or persons last mentioned shall, by any writing under his or their hand, nominate and depute, to levy, take, and receive at some one appointed place at Kaayman's Gat aforesaid, by way of toll, the several sums of money mentioned and set forth in the schedule hereunto annexed.

*Penalty for infringing this ordinance.*

3. And be it further enacted, that any person from whom any of the said tolls or sums of money shall be duly demanded, or who shall, by any act of his own intended to prevent a due demand from being made, succeed in preventing such due demand from being made, and who shall without paying the said toll, and without the consent of the person or persons entitled to de-

(1) *Vide* Ordinance No. 12, 1837—Vol. 2, and p. 475.

(2) Sanctioned and allowed by the Queen, *vide* Proclam. 20th July 1843.

Ordinance  
No. 3, 1841,  
Toll Kaay-  
man's Gat.

mand the said toll, or some other lawful authority, proceed through and beyond the place where the said toll shall be properly demandable, shall incur a fine to be paid to the colonial treasury, of not less than twenty shillings, and not more than ten pounds, and in default of payment thereof, shall be liable to be imprisoned for any period not exceeding one month.

*Duration of ordinance.*

4. And be it further enacted, that this Ordinance shall continue in force until the first day of February, one thousand eight hundred and fifty-five.

*Schedule.*

For a loaded wagon,	-	-	-	-	1	6
For an empty do.	-	-	-	-	0	9
For a saddle horse,	-	-	-	-	0	2 $\frac{1}{4}$
For loose horses, oxen, or other kind of						
cattle, each animal,	-	-	-	-	0	0 $\frac{3}{4}$

*God save the Queen!*

Given at the Cape of Good Hope, this 26th Day of June, 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk to the Legislative Council.

*Government Advertisement.*

Govt. Advt.  
July 14, 1841  
Employment  
convicts.

NOTICE is hereby given to civil commissioners, resident magistrates, and others having the charge and superintendence of convicts, that, under no pretence whatever, are they to be employed for any other purpose except for the public service.

Colonial Office, Cape of Good Hope, 14th July 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Government Advertisement.*

Govt. Advt.  
Aug. 5, 1841.  
Iron stone.

NOTICE is hereby given, that no person will be allowed to quarry or remove iron stone from the government lands on the Camp Ground, near Wynberg, or elsewhere in the vicinity of the Cape Town and Simon's Town road, without the previous permission of the surveyor general.

Colonial Office, Cape of Good Hope, 5th August 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.



*Government Advertisement.*Govt. Advt.  
Sept. 15, 1841Assistance to  
Shipping.

IN order to notify to the public as promptly as possible the occurrence of casualties on the coast near Cape Town, by shipwreck or otherwise,—His Excellency the Governor has been pleased to direct that, whenever a vessel is known to be in need of assistance, three guns will be fired from the Chavonne battery at an interval of two minutes between each, to be taken up and answered by one gun fired from the Imhoff battery.

Colonial Office, Cape of Good Hope, 15th September 1841.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Government Advertisement.*Govt. Advt.  
Sept 23, 1841Duties on  
Indian  
produce.

HIS Excellency the governor has been pleased to direct that the following Order of Her Majesty the Queen in Council, for reducing or altering the duties payable upon articles the produce or manufacture of the British possessions in India, to the same rates as are now imposed upon similar articles the produce or manufacture of the United Kingdom, or of other British possessions, be published for the guidance of the officers of Her Majesty's customs in this colony, and for general information; and the same is hereby proclaimed, promulgated, and published accordingly.

Colonial Office, Cape of Good Hope, 23rd September 1841.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*At the Court at Buckingham Palace, the 8th May 1841,*

Present :—The Queen's Most Excellent Majesty in Council.

WHEREAS by an act of parliament passed in the session of parliament held in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "an act to regulate the trade of the British possessions abroad," it was amongst other things enacted, that it should be lawful for His Majesty by and with the advice of his privy council, by any order or orders in council to be issued from time to time, to give such directions and make such regulations touching the trade and commerce of, to, and from any British possession on or near the continent of Europe, or within the Mediterranean sea, or in Africa, or within the limits of the East India company's charter, except the possessions of the said company, as to His Majesty in council should appear most expedient and salutary.

Govt. Advt.  
Sept. 23, 1841

Duties on  
Indian  
produce.

Now, therefore, Her Majesty, by and with the advice of her privy council, doth, in pursuance and in exercise of the powers and authority in her vested by the act above stated, order, and it is hereby ordered, that from and after the time when this order shall be made known in the colonies hereinafter mentioned by proclamations of the governors of the said colonies respectively, the duties now levied at the Cape of Good Hope, Ceylon, New South Wales, Van Diemen's Land, Western Australia, Southern Australia, and New Zealand, upon articles the produce and manufacture of the British possessions in India, shall be reduced or altered to the same rates as are now imposed upon similar articles the produce or manufacture of the United Kingdom, or of other British possessions.

And the right honorable the Lords commissioners of Her Majesty's treasury, and the right honorable Lord John Russell, one of Her Majesty's principal secretaries of state, are to give the necessary directions herein as to them may respectively appertain.<sup>(1)</sup>

Wm. L. Bathurst.

### *Government Advertisement.*

Govt. Advt.  
Sept. 30, 1841.

Govt. Cor-  
respondence.

NOTWITHSTANDING former government advertisements requiring that all papers, of whatever description, addressed to government, should be written in, or accompanied by a translation into, the English language, much inconvenience is still experienced from a continuation of the practice of transmitting papers to this office in the Dutch language: His Excellency the governor has, therefore, directed it to be again notified to the public, and to the several civil officers, that all memorials, applications, or documents, of what kind soever, addressed to, or submitted for the consideration of government, must for the future be written in English, or accompanied by a translation, as all others will invariably be returned to the parties by whom they have been submitted.

Colonial Office, Cape of Good Hope, 30th September 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.

(1) *Vide* Order in Council, dated 10th August 1840, *supra*.

No. 4, 1841.—Signed, Geo. Napier.

Ordinance  
No. 4, 1841.  
Estimates  
1842

*Ordinance, for applying a sum not exceeding £155,879 6 7, for the service of the year 1842. (1)*

WHEREAS the expenditure required for the service of the government of this colony for the year 1842, has been estimated at the sum of one hundred and fifty-five thousand eight hundred and seventy-nine pounds, six shillings, and seven pence :

Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that a sum, not exceeding one hundred and fifty-five thousand eight hundred and seventy-nine pounds, six shillings, and seven pence, be charged upon the revenue of the said colony, for the service of the year 1842, and applied in the manner following, that is to say :—

*For the ordinary expenditure*, a sum not exceeding seventy-eight thousand two hundred and sixty-seven pounds, ten shillings, and nine pence, in the manner set forth in the two schedules hereunto annexed, marked No. 1, A. and B. respectively.

*For the fixed contingent expenditure*, a sum not exceeding thirty-two thousand one hundred and twenty-one pounds, five shillings, and nine pence, in the manner set forth in the two schedules hereunto annexed, marked No. 2, C. and D. respectively.

*For the unfixed contingent expenditure*, a sum not exceeding twenty-one thousand nine hundred and ten pounds, eighteen shillings, and six pence, in the manner set forth in the two schedules hereunto annexed, marked No. 3, E. and F. respectively.

*For the local expenditure in the western division of the colony*, a sum not exceeding four thousand four hundred and fifteen pounds, three shillings, and six pence, in the manner set forth in the schedule hereunto annexed, marked No. 4.—And

*For the supplementary expenditure*, a sum not exceeding nineteen thousand one hundred and sixty-four pounds, eight shillings, and one penny, in the manner set forth in the two schedules hereunto annexed, marked Nos. 5 and 6 respectively.

#### SCHEDULE No. 1.—(A.)

##### *Ordinary Expenditure.—Western Districts.*

For the Governor and Private Secretary,	-	£5300	0	0
Colonial Office,	-	3120	0	0
Council Office,	-	527	0	0
Treasury,	-	1650	0	0
Registry of Deeds,	-	880	0	0

(1) Sanctioned and allowed by the Queen,—*vide* Proclam. 20th July 1843.



Ordinance No. 4, 1841.	For the Audit Office,	-	-	1260	0	0
	Stamp Office,	-	-	245	0	0
	Surveyor-General and Civil Engineer's Office,	-	-	1655	0	0
Estimates 1842	Secretary to the Land Board,	-	-	200	0	0
	Customs' Department, throughout the colony,	-	-	4115	12	6
	Port Office, Table Bay,	-	-	1092	10	0
	Tax and Tithes' Department,	-	-	702	0	0
	Government Bank,	-	-	1347	10	0
	Printing Office,	-	-	385	0	0
	Post Offices,	-	-	921	15	0
	Somerset Hospital,	-	-	663	0	0
	Pauper Establishment,	.	.	155	0	0
	Vaccine Institution,	.	.	50	3	9
	Supreme Court,	.	.	6510	0	0
	Master's office,	.	.	1970	0	0
	Attorney-general's office,	.	.	1390	0	0
	Sheriff's office,	.	.	750	0	0
	Police office, town gaol,	.	.	1401	10	0
	Civil establishment, Cape Division,	.	.	2101	10	0
	Stellenbosch ditto,	.	.	1130	0	0
	Worcester ditto,	.	.	1468	0	0
	Clanwilliam ditto,	.	.	635	0	0
	Swellendam ditto,	.	.	1335	0	0
	George ditto,	.	.	935	0	0
	Beaufort ditto,	.	.	715	0	0
	Gaols in the country,	.	.	2413	10	0
	Church establishment,	.	.	5471	0	5
	Free schools throughout the colony, (fixed allowance)	.	.	2500	0	0
	Pensions, civil, ditto	.	.	8836	14	2
	Ditto on church establishment, ditto	.	.	658	0	0
	Ditto, military and Hottentot captains, ditto	.	.	978	8	5
	Colonial agency,	.	.	200	0	0
				Total, £65,668	4	3

## SCHEDULE No. 2.—(C.)

*Fixed Contingencies.—Western Districts.*

For the governor, stationery,	.	.	£25	0	0
Colonial office, petty expenses,	.	.	41	13	9
Stationery and bookbinding,	.	.	200		
Newspapers,	.	.	36	12	
Despatch bags, &c.	.	.	8		
			—	286	5 9
Council office, stationery and bookbinding,	.	.	20	7	6
Treasury, stationery and bookbinding,	.	.	50	0	0
Deeds' Registry, ditto, ditto,	.	.	160	0	0
Audit office, ditto, ditto,	.	.	70	0	0
Stamp office, stationery and paper for stamps,	.	.	150	0	0
Surveyor general's office, stationery,	.	.	£30		
Travelling expenses,	.	.	250		
			—	280	0 0
For the civil engineer's office, stationery,	.	.	30		
Allowance for government gardens,	.	.	200		
Ditto for travelling expenses,	.	.	30		
Ditto for removal and shipment of stores,	.	.	200		
			—	460	0 0
Customs, compensation to sub-collector at Port Elizabeth,			100		
Stationery, Bookbinding, &c.			93		
			—	193	0

Port Office, petty expenses and stationery,	-	20	0	0	Ordinance No 4, 1841.
Tax and tithes' office, stationery,	-	30	0	0	
Government bank, stationery and petty expenses,	-	65	0	0	
Printing office, petty expenses and stationery,	-	124	0	0	Estimates 1842
Post office, stationery and bookbinding,	-	50			
Supply and repairs of bags, &c.	-	100			
For the conveyance of Mails,	-	3934	9	0	
Ferrying the mails across the Gauritz (12l.) Sunday's (15l.) Kafferkuils (9l.) Buffeljagts (8l.) and Vette Rivers (10l.)	-	54	0	0	
Gratuities to masters of vessels,	-	50			
Candles, twine, coolie-hire, &c , and jackets and hats for Letter-carriers,	-	80	2	6	
	-	4268	11	6	
Somerset hospital, miscellaneous,	-	2270	0	0	
Pauper establishment, miscellaneous,	-	856	0	0	
Vaccine institution, stationery,	-	10	0	0	
Leper institution, miscellaneous,	-	1200	0	0	
Medicines for country districts	-	100	0	0	
Supreme court, stationery, and bookbinding,	-	70			
Petty expenses,	-	27			
	-	97	0	0	
Master's office, stationery and bookbinding,	-	110	0	0	
Attorney-general's office, do. do.	-	15	0	0	
Sheriff's office, do. do.	-	30	0	0	
Police department, provisions and clothing for convicts, in Cape Town, Cape Division, and Robben Island,	-	4000			
Stationery and bookbinding,	-	50			
	-	4050	0	0	
Superintendent general of education,—stationery and book- binding,	-	20	0	0	
House-rent to civil commissioner, Cape division,	-	100	0	0	
Travelling expenses of civil commissioners, in collecting arrear taxes,	-	100	0	0	
Transport and lodging of circuit judges,	-	1100	0	0	
Conveyance of district posts,	-	350	0	0	
Provisioning and clothing of convicts and prisoners in the districts,	-	2500	0	0	
Transport and maintenance of lepers in ditto,	-	160	0	0	
Stationery for country districts,	-	500	0	0	
Expenses of witnesses in criminal cases,	-	910	0	0	
Petty prison expenses,	-	95	0	0	
Horse-hire for serving summonses, for district courts,	-	482	0	0	
Transport of convicts, &c.	-	520	0	0	
Postages, Western Divisions,	-	67	10	0	
Inquests,	-	140	0	0	
Medical expenses,	-	90	0	0	
Expenses of corporal punishments under sentence of district courts,	-	112	10	0	
Bookbinding in districts,	-	25	0	0	
Total, £ 22,212					4 9

#### SCHEDULE No. 3.—(E.)

##### Unfixed Contingencies.—Western Districts.

For the governor, travelling expenses,	-	£300	0	0
Colonial Office,—Supply of the government gazette, and extra printing,	-	580		
Presents to border chiefs, paid through the colonial office,	50			
Sundry miscellaneous expenses,	-	8		
Fuel,	-	15		
	-	653	0	0

Ordinance No. 4, 1841.  Estimates 1842	<i>Council Office,—Fuel, &amp;c.</i>	.	.	5	0	0
	<i>Treasury,—Petty expenses, fuel, &amp;c.</i>	-	-	3	0	0
	<i>Deeds' Registry,—Ditto, ditto,</i>	.	.	5	0	0
	<i>Audit Office,—Petty expenses,</i>	.	.	15	0	0
	<i>Surveyor General's Office,—For re-surveys of lands in the</i>					
	Eastern Districts,	.	.	800	0	0
	For ditto in the western districts,	-	-	300	0	0
	Fuel and petty expenses,	.	.	9	10	0
				1109	10	0
	<i>Civil Engineer's Department,—For ordinary repairs and alterations.</i>					
	Repairs to custom-house, searcher's office, warehouse, boat-shed, and tide-waiter's office,	.	.	150		
	Ditto to town prison,	.	.	60		
	Repairs to public offices,	.	.	100		
	Ditto to colonial office,	.	.	59		
	Ditto to government house,	.	.	150		
	Ditto to stables,	.	.	20		
	Ditto to gardener's cottage, walls and fences,	.	.	110		
	Ditto to public buildings in caledon-square,	.	.	200		
	Ditto to lodge for paupers,	-	.	60		
	Repairs to light-house, signal stations and port office,	.	.	100		
	Ditto to Somerset hospital,	.	.	200		
	Ditto to free school in keerom-street,	.	.	25		
	Ditto to police station house,	.	.	30		
	Ditto to buildings on Robben Island,	.	.	50		
	Erection of light house at Mouille Point,	.	.	350		
	<i>Supply and repairs of furniture.</i>					
	For public offices,	.	.	100		
	For government house,	.	.	30		
	<i>For supplies.</i>					
	Implements,	-	-	100		
	Lime bags,	-	-	7	10	
	Coals for forge,	-	-	30		
	Oil and cotton for light house,	-	-	150		
	Keep of horse and cart,	-	-	27	7	6
	Repairs to government and circuit wagons,	.	.	250		
	Winding clock in public offices,	.	.	8		
				2357	17	6
	<i>Customs' Department,—Miscellaneous,</i>	.	.	70	0	0
	<i>Port Office,—Repairs of boats, &amp;c.</i>	.	.	40	0	0
	<i>Government Bank,—Fuel,</i>	-	-	5	0	0
	<i>Printing Office,—Repairs to presses, &amp;c.</i>	.	.	18	0	0
	<i>Somerset Hospital,—Clothing and furniture,</i>	.	.	200	0	0
	<i>Pauper Establishment,—Clothing and furniture,</i>	.	.	244	0	0
	<i>Vaccine Institution—Hire of house,</i>	.	.	90	0	0
	<i>Supreme Court,—Fuel, light, and miscellaneous,</i>	.	.	22	0	0
	<i>Master's Office,—Fuel and sundries,</i>	.	.	5	0	0
	<i>Attorney-General's Office,—Fuel,</i>	.	.	5	0	0
	<i>Sheriff's Office,—Summoning jurors and witnesses,</i>	.	.	1650		
	Expenses of criminal punishments,	.	.	200		
	Fuel,	-	-	3		
				1853	0	0
	<i>Police Department.—Town Prison, &amp;c., and House of Correction.</i>					
	Bedding for convicts,	.	.	£150		
	Ditto for prisoners,	.	.	100		
	Fuel,	.	.	100		
	Clothing for house of correction,	.	.	50		
	Smith's work,	.	.	40		





Ordinance	Stabling, forage, &c., for horse in Cape Town,	-	27	
No. 4, 1841.	Repairs of buildings, at Simon's Town,	.	50	
	Do. searcher's and port offices,	-	15	
Estimates	Do. free school,	-	30	
1842	Do. parsonage,	-	30	
	Do. to prison at Rondebosch,,	-	50	
				526 0 0

*Stellenbosch.*

Articles for gaols, prisoners, and convicts,	.	60	
Putting convicts in irons, &c.	.	60	
Horse-hire for civil commissioner on other duties than collecting taxes,	.	15	
Expresses and horse-hire to field-cornets on public service,	.	150	
Interpretations, and medical attendance circuit court,	.	30	
Medical attendance at the Paarl,	-	50	
Repairs of public buildings,	.	100	
Ditto of gaols,	.	50	
Temporary clerk to clerk of the peace during sessions of circuit courts,	.	7 10	
			522 10 0

*Worcester.*

Necessaries for gaols, prisoners, and convicts,	.	160	
Supply and repair of tools, putting on and taking off convicts' irons,	-	50	
Interpretations, circuit court,	-	20	
Repairs of buildings,	-	70	
Repairs to gaol,	.	50	
Horse-hire to field-cornets on public service,	.	150	
Expenses of justice of the peace and hire of lock-up house at Tulbagh,	.	25	
			525 0 0

*Clanwilliam.*

Necessaries for gaols, prisoners, and convicts,	.	30	
Putting on and taking off convicts' irons, &c.	.	22 10	
Horse-hire, &c. to clerk of the peace,	.	10	
Interpretations circuit court,	.	20	
Horse and wagon hire to civil commissioner on other duties than collecting taxes,	-	7 10	
Horse-hire to field-cornets on public duty	-	60	
Horse-hire to district surgeon,	-	50	
Repairs of public buildings,	-	30	
Purchase of bell for prison,	-	7 10	
			245 0 0

*Swellendam.*

Necessaries for gaols, prisoners, and convicts,	-	45	
Supply of tools and irons to convicts, &c.	-	60	
Interpretations, circuit court,	-	30	
Expenses and horse-hire for civil commissioner on other duty than collecting taxes,	-	35	
Horse-hire for field-cornets on public duty,	-	100	
Repairs of buildings,	-	85	
Ditto of leper institution,	-	25	
Ditto to gaol,	-	40	
Temporary clerk to clerk of the peace during sessions of circuit courts,	-	7 10	
Allowance to superannuated ferryman,	-	10	
			437 10 0

*George.*

Necessaries for gaol and convicts, . . .	30	
Repairs of public buildings and gaol, . . .	20	
Interpretations circuit court, . . .	20	
Kafir interpretations, . . .	10	
Horse-hire to field-cornets on public duty, . . .	80	
Supply and repair of tools, and putting on and taking off convicts' irons, . . .	12	
Expenses and horse-hire to civil commissioner on other duties than collecting taxes, . . .	30	
Hire of a building for lepers, . . .	12	
Ditto for customs at Mossel Bay, . . .	30	
Temporary clerk to clerk of peace during sessions of circuit court, . . .	7 10	
		251 10 0

Ordinance  
No. 4, 1841.Estimates  
1842.*Beaufort.*

Necessaries for gaols, prisoners, and convicts, supply and repair of tools, and putting on and taking off convicts' irons, . . .	38	
Interpretations and medical attendance, circuit court, . . .	25	
Horse-hire to field-cornets on public service, . . .	70	
Repairs of buildings, . . .	20	
Ditto of gaol, . . .	75	
Expenses and horse-hire for civil commissioner on other duties than collecting taxes, . . .	10	
Horse-hire for district surgeon on public duty, . . .	20	
		258 0 0
For conveyance of gazettes, &c. to the field-cornetcies, and the maintenance of public watering and baiting places—		

The Cape division, . . .	121	
Stellenbosch ditto, . . .	33	
Worcester ditto, . . .	150	
Clanwilliam ditto, . . .	61	
Swellendam ditto, . . .	161	
George ditto, . . .	150	
Beaufort ditto, . . .	66	
		742 0 0

Total £16,953 2 6

## SCHEDULE No. 4.

*Local Expenditure.—Western Districts.**Roads and Ferries.—Cape Division.*

Repairs of toll roads, . . .	£1500	
Ditto streets, &c. Simon's Town, . . .	80	
Ditto toll-house, ditto, . . .	10	
Ditto upper and lower toll-houses, . . .	40	
Ditto toll-house, Muizenberg, . . .	5	
Ditto of bridges over Liesbeek's River, . . .	20	
Ditto of water courses at Simon's Town, . . .	25	
		1680 0 0

*Stellenbosch.*

Repairs of Fransche Hoek and Bot River roads, . . .	210	
Ditto to bridges, &c. at Fransche Hoek, . . .	30	
Repairs to Sir Lowry Cole's Pass, . . .	245	
Ditto Houw Hoek, . . .	160	
Ditto to bridge over the Eerste River, . . .	30	

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Ordinance No. 4, 1841.	Ditto of road from Sir Lowry's Pass to ditto,	-	100			
Estimates 1842.	Repairs to causeway, Palmiet River,	-	30			
	Construction of barrel-drain, &c. at Somerset (West),	301	13	6		
					1106	13 6
	<i>Worcester.</i>					
	Tools for repair of Roodezand Kloof,	-	14			
	Repair of toll-houses, ditto,	-	20			
	Repairs of post-roads in the division,	-	100			
					134	0 0
	<i>Clanwilliam.</i>					
	Repairs of ferry boat,	.	.	.	2	10 0
	<i>Swellendam.</i>					
	Repairs of main post road throughout the division,	.	245			
	Ditto of road through Cogman's Kloof,	-	12			
	Ditto to ferry boats and buildings,	.	25			
	Ditto to four bridges,	.	10			
	Ditto of road over the Platte Kloof,	.	70			
					362	0 0
	<i>George.</i>					
	Repairs to Cradoek's Kloof, (including a station-house,)	.	700			
	Ditto of main road through Attaqua's Kloof,	-	350			
	Repairs to ferry boats,	.	30			
					1080	0 0
	<i>Beaufort.</i>					
	Repairs of post-roads through the division,	-			50	0 0
					Total	£ 4415 3 6

## SCHEDULE No. 5.

## Supplementary Expenditure.—Western Districts.

<i>Colonial Office.</i>						
Salary to a scavenger, for the public offices,	£30					
Ditto to gate-keeper, ditto,	10	0				
			40	0	0	
<i>Council Office.</i>						
Increase of salary to messenger,	.	.	9	0	0	
<i>Treasury.</i>						
Ditto ditto to chief clerk,	.	.	30	0	0	
<i>Audit Office.</i>						
Ditto ditto to ditto,	.	.	20	0	0	
<i>Deeds' Registry.</i>						
Ditto ditto to chief clerk,	.	£70				
Ditto Ditto to 1st ditto,	.	40				
Salaries to three extra clerks,	.	240				
Ditto to Messenger,	.	40				
			390	0	0	
<i>Surveyor-General's Office.</i>						
Increase of salary to assistant surveyor general,	.	50				
Ditto to chief clerk,	.	20				
Ditto to 2d ditto,	.	15				
Ditto to draftsman,	.	40				
Ditto to messenger,	.	5				
Salary to 2nd assistant surveyor-general,	.	300				
Ditto to an additional clerk,	.	90				
			520	0	0	

*Civil Engineer's Office.*

Salary to assistant Civil Engineer, .	250		
Ditto to temporary clerk, .	78	5	
Increase of ditto to book and storekeeper, .	25		
Salary to light-house keepers, -	90		
		443	5 0

*Customs' Department.*

Increase of salary to collector, .	300		
Temporary clerk, Cape Town, -	90		
Ditto, Port Elizabeth, -	90		
		480	0 0

*Port Office.*

Salary to extra boatman, -	50		
Increase of ditto to boat's crew, signalman at the port office, and messenger, -	51	10	
For carriage of provisions to signal station on the hill, -	18	5	
		119	15 0

*Tax and Transfer Dues' Office.*

Salary to an extra clerk, .	75		
Increase of ditto to clerk in transfer office, -	15		
		90	0 0

*Government Bank.*

Increase of ditto to certain of its officers, -		262	10 0
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*Printing Office.*

Ditto ditto to superintendent, -	30		
Ditto ditto to two pressmen, at 15 <i>l.</i> each, -	30		
Salary to an additional compositor, -	60		
Ditto to an apprentice, -	18		
		138	0 0

*Post Office.*

Increase of salary to clerks, letter carriers, and country postmasters, western division, -	131	15	
Two agents, at Langekloof (15 <i>l.</i> ), and Zuur Anys (10 <i>l.</i> ) -	25		
		156	15 0

*Somerset Hospital.*

Increase of salary to surgeon, -	100		
Ditto assistant ditto, -	80		
Ditto of ditto to steward, -	22	10	
Salary of lunatic matron, -	13	10	
Ditto of messenger, -	18		
Ditto of additional sick attendant, -	22	10	
		256	10 0

*Vaccine Institution.*

Salary of messenger, -		36	0 0
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*Colonial Medical Committee.*

Salary to the president, -		52	10 0
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*Robben Island.*

Salary to a medical officer, -		91	5 0
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*Police Office.*

Increase of ditto to first clerk, -	40		
Salary to keeper of house of correction, -	45		
Ditto to matron of ditto, -	12		
		97	0 0

Ordinance  
No. 4, 1841.

*New Police Establishment.*

Estimates 1842	Salary to Inspector, -	-	200	
	Ditto to four sub-inspectors, -	-	320	
	Ditto to four sergeants, -	-	244	12
	Ditto to thirty-seven constables, -	-	1924	
	45 sets of uniform, -	-	400	
	Arms, -	-	15	
	Lamp oil, cotton, &c. -	-	42	
	Forage for police horses, -	-	255	
	Horses to replace unserviceable ditto, -	-	100	
	New saddles and bridles, -	-	45	
	Farriery, repairs of saddles, &c. -	-	75	
	Two stable attendants, -	-	54	
	Buckets, baskets, shovels, &c. -	-	3	
	Glaziers' work and lanterns for station house and stable, -	-	20	
	Chains for securing refractory Prisoners, -	-	20	
	Allowance to superintendent for forage for two horses, -	-	54	15
				<hr/> 3772 7 0

*Cape Division.*

Increase of salary to clerk of the magistrate's court, Cape Town, -	-	60	
Salary to an extra clerk to civil commissioner, -	-	75	
Ditto to ditto in clerk of the peace office, -	-	20	
Ditto to resident surgeon, Simon's Town, -	-	27	10
Ditto to superintendent of waterworks, ditto, -	-	39	10 10
Ditto to two superintendents of Cape Flats, -	-	120	
House-rent to resident justice of the peace at Simon's Town, -	-	50	
Increase of salary to police at Simon's Town, -	-	18	

*Church Establishment.*

Salary to minister of the Dutch reformed church at Wynberg, -	-	200	
Ditto to clerk at ditto, -	-	30	
Ditto to two episcopal ditto at ditto and Rondebosch, -	-	200	
Ditto to two clerks at ditto, -	-	40	
Allowances to field-cornets, &c. .	.	357	10
			<hr/> 1237 10 10

*Stellenbosch Division.*

Salary to district surgeon, .	.	100	
Allowances to field-cornets, &c. .	.	357	10
			<hr/> 457 10 0

*Worcester ditto.*

Allowances to field-cornets, &c. .	.		220 0 0
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*Clanwilliam ditto.*

Increase of salary to civil commissioner, .	.	60	
Ditto to ditto of clerk to ditto, .	.	20	
Salary to an extra clerk, .	.	80	
Ditto to district postmaster, .	.	3	
Ditto to district surgeon, .	.	100	
Ditto to ferry boat-man, .	.	7	10
Increase of salary to police, .	.	17	
Allowances to field-cornets, &c. .	.	288	15
			<hr/> 576 5 0

*Swellendam ditto.*

Salary to two ministers of the Dutch reformed church at Riversdale and Bredasdorp, .	.	400	
Ditto to two clerks to ditto, .	.	60	





Ordinance  
No. 4, 1841.

## SCHEDULE No. 1.—(B.)

*Ordinary Expenditure.—Eastern Districts.*

Estimates 1842			
	Lientenant-Governor's establishment,	-	£2000 0 0
	Civil establishment, Albany Division,	-	1580 0 0
	Uitenhage ditto,	-	1804 0 0
	Somerset ditto,	-	785 0 0
	Cradock ditto,	-	300 0 0
	Graaff-Reinet ditto,	-	1080 0 0
	Colesberg ditto,	-	410 0 0
	Post Office establishment,	-	161 0 0
	Gaols and Police ditto,	-	1557 0 0
	Church ditto,	-	2832 6 8
			Total, £12,599 6 6

## SCHEDULE No. 2.—(D.)

*Fixed Contingencies.—Eastern Districts.*

House-rent for Lieut.-Governor,	-	300 0 0
Ditto for circuit judges,	-	129 0 0
Ditto for two civil commissioners,	-	200 0 0
Ditto for Minister Kat River,	-	50 0 0
Ditto for chaplain Port Elizabeth,	-	40 0 0
Office rent for Lieutenant-Governor,	-	70 0 0
Transport for ditto.	-	200 0 0
Ditto for circuit judges,	-	459 6 0
Ditto of civil commissioners, medical officers, and field-cornets,	-	480 0 0
Maintenance and clothing of convicts and prisoners,	-	4050 0 0
Conveyance of convicts and prisoners,	-	625 0 0
Ditto of lepers and destitute persons,	-	100 0 0
Petty prison requisities,	-	200 0 0
Inquests,	-	175 0 0
Expenses of witnesses in criminal cases in district courts,	-	980 0 0
Horse-hire, in summoning ditto,	-	500 0 0
Postage on official letters,	-	88 0 0
Maintenance and clothing of lepers, &c.	-	520 0 0
Hire of buildings for ditto,	-	105 0 0
Bookbinding,	-	19 10 0
Stationery,	-	500 0 0
Horse allowance to justice of the peace, Fort Beaufort,	-	18 5 0
Medicines for gaols,	-	100 0 0

Total, £9909 1 0

## SCHEDULE No. 3.—(F.)

*Unfixed Contingencies.—Eastern Districts.**Albany Division.*

House-rent for minister at Bathurst,	-	30
Ditto for extra police, Graham's Town, and for constable at Bathurst,	-	45
Ditto for police at Fort Beaufort,	-	18
Necessaries for gaols, prisoners and convicts, supply and repair of convicts' tools, putting on and taking off irons of convicts, repairs of roads and tools for do.	-	400
Execution of criminal sentences,	-	20
Interpretations before circuit court,	-	20
Ditto Magistrate's court, from the Dutch,	-	60
Medical attendance in court,	-	30
For the conveyance of extra official despatches,	-	5
Incidental petty expenses,	-	50
Presents to Kafirs and other native tribes,	-	200
Repairs of public buildings,	-	100
Ditto to residence of lieutenant-governor,	-	25
Rations for destitute in the division,	-	25
Conveyance of mail from Graham's Town to Salem,	-	10





Ordinance  
No. 4, 1841.

SUNDRY EXPENSES.

Estimates  
1842

Printing office forms and inserting advertisements &c. in one of the local papers, -	-	100		
Hire of a building for, and maintenance of lunatics, -	-	200		
Grant to municipality of Graham's Town, to provide pipes for waterworks, -	-	300		
Repair of post-roads throughout the divisions, -	-	400		
			1000	0 0
For conveyance of gazettes, &c. to field-cornets in the following divisions—				
Uitenhage division, -	-	90		
Somerset ditto, -	-	50		
Cradock ditto, -	-	50		
Graaff-reinet ditto, -	-	50		
Colesberg ditto, -	-	71		
			311	0 0
Total		£4,957	16	0

SCHEDULE No. 6.

*Supplementary Expenditure.—Eastern Districts.*

*Albany Division.*

Salary to two extra clerks, in the civil commissioner and resident magistrate's offices, -	-	160		
Salary and forage allowance to a field-cornet and superin- tendent of convict labour and roads in and near Graham's Town, -	-	77	7 6	
Ditto of two constables at Salem and Sidbury, -	-	40		
Ditto of four additional ditto in Graham's Town, -	-	144		
Allowance to extra ditto at the sittings of circuit, -	-	10		
Salary to market master at Fort Beaufort -	-	22	10	
Ditto to police at ditto, -	-	72		
Ditto to district surgeon, -	-	150		
Allowances to field-cornets, &c, -	-	259	5	
<i>Uitenhage ditto.</i>			935	2 6
Salary to district surgeon, Uitenhage, -	-	150		
Ditto to Fingo interpreter, ditto -	-	7	4	
Ditto to district surgeon, Port Elizabeth -	-	60		
Ditto to messenger, magistrate's court ditto, -	-	25		
Ditto to overseer of convicts, ditto, -	-	68	8 9	
Ditto to two extra constables, ditto, at £30, -	-	60		
Ditto to one extra boatman, ditto, -	-	27		
Ditto to sexton, ditto, -	-	18	15	
Ditto to superintendent of leper institution, ditto, -	-	40		
Allowances to field-cornets, &c. -	-	176	5	
<i>Somerset ditto.</i>			632	12 9
Allowances to field-cornets, &c. -	-		158	15 0
<i>Cradock ditto.</i>				
Salary to district surgeon, -	-	150		
Ditto to messenger, -	-	25		
Ditto to two additional constables -	-	56	10	
Kafir interpreter -	-	20		
Allowances to field-cornets, &c, -	-	166	15	
<i>Graaff-Reinet ditto.</i>			418	5 0
Salary to district surgeon, -	-	150		
Superintendence and repairs of town clock, -	-	22	10	
Superintendent of dams and canals, -	-	45		
Allowances to field-cornets, &c. -	-	186	5	
<i>Colesberg ditto.</i>			403	15 0
Salary to two additional constables, -	-	56	10	
Ditto to messenger, -	-	25		
Ditto to district surgeon, -	-	150		
Allowances to field-cornets, &c. -	-	231	5	
			462	15 0

*Post Office.*

			Ordinance No. 4, 1841
Salary to postmaster at Fort Beaufort, -	-	12	
Ditto to ditto at Colesberg, -	-	25	
Increase of salary to certain postmasters, -	-	96	Estimates 1842
Salary to agent at Galgebosch, -	-	10	

Salary to engineer, for superintending the formation and repairs of roads, -	-	143 0 0
	-	200 0 0

*Kafir Police.*

Provisions, pay and clothing, -	-	1300 0 0
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## AGENT GENERAL'S DEPARTMENT.

Salary to agent general (£350 already estimated on Lieutenant-Governor's Establishment,) -	150	
Allowance of house-rent to ditto, -	50	
Salary to clerk, -	100	
Ditto to interpreter, -	100	
Ditto to assistant interpreter, -	50	
Ditto to diplomatic agent to Gaika Tribe, -	300	
Ditto ditto T'Slambie and Congo Tribes, -	300	
Ditto ditto Tambookies, -	150	
Ditto ditto Crieli's Kafir, -	150	
Ditto to interpreter to agent to Gaika Tribes, -	27	
Forage allowance to Kafir interpreter, Graham's Town, -	18 15	
		1395 15 0
		Total. £6050 0 3

*God save the Queen !*

Given at the Cape of Good Hope, this 13th Day of October, 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,

Clerk of the Legislative Council.

*Government Advertisement.*

It having been represented to His Excellency the Governor that there is good reason to apprehend that the vaccine virus will be again lost in this colony, unless vaccination is strictly confined to those officers who are appointed for that purpose by the government;—Notice is hereby given, that the proclamation of the 7th February 1840, <sup>(1)</sup> withdrawing and cancelling all former appointments and restricting the permission to vaccinate to such medical officers and others as are therein specified is still in force, and that all persons vaccinating without such special permission, render themselves liable to the penalties set forth in former Proclamations.

Govt. Advt.  
Oct. 14 1841.

Vaccine  
Virus.

Colonial Office, Cape of Good Hope, 14th October 1841.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.

<sup>(1)</sup> *Vide, supra p. 70.*

Proclamation  
Dec. 2, 1841.

Emigrant  
Farmers.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

WHEREAS certain persons, being subjects, and chiefly natural born subjects, of Her Majesty, have heretofore at various times emigrated from this Colony, and have taken possession of Port Natal, and certain territories adjacent or appertaining thereto :

And whereas I have lately received a letter, addressed to me, dated Pieter Mauritzburg, the 11th October 1841, signed by J. Prinslo, as president, and Jacs. Johannes Burger, as secretary, of the council of emigrant farmers, now residing at Port Natal, and in the territory adjacent thereto, in which they inform me, in the name and by the desire of the said council, as they allege, that they claim to be, and to be recognized as, an independent state or people, and declare that they are Dutch South Africans by birth, and have ceased to be British subjects, and refuse to be recognized or treated as such ;—and whereas I have been informed that the said council, at a meeting held on the 2d of August 1841, and subsequent days, passed a resolution, by which they resolve, that all Kafirs inhabiting Port Natal and the territory thereunto appertaining, as well those Kafirs who were established at Port Natal long previous to its occupation by the emigrant farmers, as others the subjects of chiefs at peace with her Majesty, and living at peace with all Her Majesty's subjects, shall be removed, without their consent, from Port Natal and the territory thereunto appertaining into the country lying between the mouth of the Umtafoena and that of the Umzimvoobo, which country forms part of the territories belonging to Faku, a chief at peace with Her Majesty, without having obtained the consent of the said Faku, from which most unjust and illegal proceedings there is reason to apprehend that warfare and bloodshed will be occasioned ;—and whereas I am desirous to prevent any of Her Majesty's subjects from being through ignorance misled by the evil disposed and mischievous or misguided persons who have written, or authorized the writing and forwarding, to me of the said letter, dated the 11th of October 1841, and am determined to prevent, to the utmost of my power, the possibility of the occurrence of warfare and bloodshed within any of the said territories : I have therefore deemed it expedient and necessary to declare, as I do hereby proclaim and declare, that the said emigrants have no right or claim to be recognized as an independent state or people ; that Her Majesty will not recognize them as such, and will not permit or suffer any portion of her subjects to form themselves into an independent state or people within any of the said territories ; and that, in obedience to the orders of my sovereign, I shall resume the military occupation of the same, by sending thither, without delay, a detachment of Her Majesty's forces.—And I hereby warn all British-born



subjects, and particularly those who, after the eighteenth day of January 1806, have been born within this colony, of parents who, at the time of their birth, by reason of their permanent residence in this colony, or otherwise, owed allegiance to, and were subjects of, the British crown, that they cannot, by their removal from this colony to any other place whatsoever, divest themselves of the allegiance which they owe, by reason of their birth, to the British crown, or of the character of British subjects, and notwithstanding any such removal, must and will still be considered, and are liable to be treated as, British subjects; and I hereby warn all British subjects, whether by birth or otherwise, against the consequences of in any wise resisting or opposing Her Majesty's forces, or the due exercise of Her Majesty's rightful authority, and that they and all others who shall engage in any seditious practices, or shew any disaffection to Her Majesty, will forfeit all claim, as well for their families as themselves, to any favorable consideration of their claims to any lands now possessed by them, in any settlement or arrangement which Her Majesty may deem it right and fitting to make touching and concerning the same.

Proclamation  
Dec. 2, 1841.

Emigrant  
Farmers.

And I further warn all persons, not being British subjects, and not acting under the commission or authority of some established and recognized state or potentate, who shall within any of the territories herein-before mentioned, be in arms for the purpose of attacking, or forcibly resisting or opposing Her Majesty's forces, or of attacking the subjects of any native chief at peace with, or under the protection of, Her Majesty, that they will thereby contravene the law of nations, place themselves out of the protection of the law, and render themselves liable to be dealt with as the interests of the crown may require and circumstances may render advisable.<sup>(1)</sup>

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at the Cape of Good Hope, this 2d Day of December 1841.

(Signed) Geo. Napier,

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

### *Government Memorandum.*

#### *Establishment of a Normal Seminary.*

In the memorandum published by command of His Excellency in the *Government Gazette* of the 24th of May 1839,<sup>(2)</sup> it was intimated in allusion to the new system of education about to be introduced into the school establishment of the colony, that a

Govt. Mem.  
Jan. 27, 1842.

Education  
Normal Se-  
minary.

<sup>(1)</sup> *Vide infra* Proclamation.

<sup>(2)</sup> *Vide supra*, p. 44.

Govt. Mem.  
Jan. 27, 1842.

Education  
Normal Se-  
minary.

normal seminary would be instituted in Cape Town, at the public expense, for the purpose of professionally training young men to the office of teachers.

This institution is now about to be organized under the superintendence of the Rev. Thomas Buchanan, whom His Excellency has appointed rector thereof; and it is expected that the class rooms which are being fitted up on the most approved principles, will be in a sufficient state of forwardness by the end of the ensuing month, to admit of the model juvenile school being opened, which forms a part of the institution.

Into the model school, the elementary course of the new system, the branches of which have been detailed in the memorandum referred to, will be introduced free of charge to all pupils admitted. And as the main object of this department of the institution is to afford to the seminants or young men training for teachers, opportunities of witnessing, under the most favorable circumstances, the development of the principles adduced in the lecture room, and of practical training in the art of teaching, and the whole economy of a school,—the necessity will be readily admitted of a strict adherence on the part of parents and pupils to all rules bearing on the neat and cleanly habits of the pupils, regularity of attendance, and a ready acquiescence in the arrangements of the school. For the same reason, preference will be given in the admission of pupils to such as enter for the whole of the elementary course; and none will be received under the age of six or above that of fourteen.

In regard to the course of instruction, as well as training, on which the seminants will enter, it is proper to mention, that provision will be made for a course of study of a more advanced character than that of the model school, the chief branches of which will consist in English and classical literature, mental philosophy; abstract and physical science.

A moderate fee will be exacted for instruction in the above branches, but no charge will be made for training, nor will the seminant be placed under any obligation as to future employment, on being found qualified for the duties of his profession, it being His Excellency's most anxious wish that the blessings of a liberal education be diffused throughout all ranks of society, as well through the agency of private and proprietary seminaries, as by means of the schools established and supported by government.

Young men wishing to join the institution as seminants, and parents desirous of entering their children as pupils into the model school are requested to make application to that effect to Mr. Buchanan, 19, Burg-street, who will afford them every requisite information.

Colonial Office, Cape of Good Hope, 27th January 1842.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Government Notice.**Model School for Elementary Instruction in connection with the Normal Seminary.*Govt. Notice.  
May 26, 1842.Education  
Normal Sem-  
inary.

NOTICE is hereby given, that the classes for elementary instruction in the model school are now open, and that application for admission will be received by Mr Buchanan, at the school premises in Keerom-street, *every Monday Morning*, at 9 o'clock.

N. B. No charge is made for instruction in the several branches of the elementary course. The text books will be supplied to the pupils at the publishing price.

Colonial Office, Cape of Good Hope, 26th May 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

No. 1, 1842.—Signed, George Napier.

*Ordinance for authorising the appointment of a Vestry and Churchwardens for St. Mary's Church at Port Elizabeth. (1)*

*Preamble.*

WHEREAS it appears expedient that the inhabitants of Port Elizabeth and the parochial limits thereof, being members of the united church of England and Ireland, as there by law established, should be invested with the right and privilege of choosing and appointing under certain regulations a vestry and churchwardens, for the better and more effectual administration and management of all matters connected with the church at Port Elizabeth, commonly called St. Mary's church, and that the said vestry and churchwardens should possess certain powers and perform certain duties, as the same are usually possessed and exercised by such officers, according to the customs and usages of the said united church of England and Ireland; and whereas on the appointment of the said vestry and churchwardens it appears expedient that the control over the affairs of the said church, which has been hitherto exercised by the original church committee, and since the dissolution of that body, by the officiating minister and churchwardens or warden should cease and determine.

Ordinance  
No. 1, 1842.St. Mary's  
Church.  
Port Eliza-  
beth.*Annual general meeting for election of a vestry.*

1. Now, therefore, be it enacted by the governor of the Cape of Good Hope, by the advice and consent of the legislative

(1) Sanctioned and allowed by the Queen, *vide* Proclamation the 20th July 1843.



Ordinance  
No. 1, 1842.

St. Mary's  
Church  
Port Elizabeth.

council thereof, that on the Easter Monday ensuing next after the passing of this ordinance, and on each succeeding Easter Monday, a general meeting of the male inhabitants of Port Elizabeth and the parochial limits thereof, being of the age of twenty years or upwards, who shall be holders of sittings in St. Mary's church aforesaid, or who shall be entitled *ex officio* to occupy seats in the pews already set apart for the accommodation of the churchwardens and strangers, the officers of the garrison and the chief civil magistrate of the district, such *ex officio* holders of seats, being members of the aforesaid united church of England and Ireland, shall be holden in the vestry of St. Mary's church in Port Elizabeth, fourteen days' notice whereof shall be given during divine service by the minister for the time being, and by notice posted on the church doors, for the purpose of electing a vestry; and it shall and may be lawful for the inhabitants aforesaid, or a majority of them, at such meeting assembled to elect from among themselves any number of persons, not exceeding eight, in the manner and subject to the provisions hereinafter mentioned, who, together with the officiating minister for the time being, shall form a vestry, charged with the duties, and invested with the powers hereinafter specified.

#### *Election of auditors.*

2. And be it further enacted, that two other persons, not being members of the said vestry, shall likewise be elected at such meeting as aforesaid, as auditors of the accounts of the said vestry.

#### *Qualification of members of vestry.*

3. And be it enacted, that no male inhabitant shall be competent to vote at any such meeting for the election of a vestry, who shall have allowed the rent of his pew or sitting to continue in arrear and unpaid for twenty-eight days after the same shall have become due and payable, and shall have been legally demanded; nor shall any male inhabitant be qualified to be elected as a member of the vestry, unless he be a resident householder in the town of Port Elizabeth, or within the parochial limits thereof, and unless he be a member of the united church of England and Ireland.

#### *List of persons eligible to lie open for inspection.*

4. And be it enacted, that a list of all persons eligible according to the provisions of the foregoing sections shall be prepared by the officiating minister, so long as there are no churchwardens appointed under the provisions of this ordinance, and when churchwardens shall have been so appointed, as is hereinafter provided, then by the minister and churchwardens conjointly, which list shall be open for the inspection of all persons

entitled to vote at the election of the said vestry and auditors, at least fourteen days before any election is to take place.

Ordinance  
No. 1, 1842.

St. Mary's  
Church,  
Port Eliza-  
beth.

*Election, how carried on.*

5. And be it enacted, that at every such general meeting as aforesaid, the election shall be carried on by lists, duly signed by such inhabitants as aforesaid respectively, and containing the names of the persons for whom they vote to be elected as vestrymen or as auditors.

*Appointment of chairman.*

6. And be it enacted, that the officiating minister for the time being shall preside as chairman at all meetings of the said vestry, provided that in case of his being absent from any such meeting, one of the other members shall be elected to act as chairman, and in case of the votes of the said vestry being equally divided, the chairman or acting chairman shall have a casting vote in addition to his own.

*Five members a quorum.*

7. And be it enacted, that five members of the said vestry, or four members, in addition to the chairman or acting chairman, shall form a quorum, which shall be competent to perform all matters and things which may be done by the entire vestry, under and by virtue of any of the provisions of this Ordinance.

*Rules &c. for management of the church.*

8. And be it further enacted, that it shall and may be lawful for the said vestry so from time to time constituted and appointed to frame, adopt, amend, alter or rescind any rules, orders, or by-laws, which may to them appear expedient for their guidance in the discharge of their duties, and for more effectually executing the provisions of this ordinance, and also to take such order for the management of the said church as they shall deem expedient; provided that the said rules, orders or by-laws contain nothing repugnant to law, or to the tenor of this ordinance, or to the customs and usages of the united church of England and Ireland, as there by law established.

*Church monies, &c. to be delivered over to the first vestry.*

9. And be it enacted, that the officiating minister and churchwardens, or warden officiating at the time of the election of the first vestry under this Ordinance, shall upon the appointment of the said vestry, deliver or cause to be delivered over to the said vestry all deeds, accounts, documents, and papers relating to the church, which shall be at the time in their custody or power, or authentic copies of the same, and all sums of money in their possession or subject to their control, and that

Ordinance  
No. 1, 1842.

St. Mary's  
Church  
Port Eliza-  
beth.

their management of the affairs of the said church, which since the dissolution of the church committee devolved upon them, shall thereupon cease and determine.

*Vestry to have the same powers as minister and wardens.*

10. And be it enacted, that the said vestry so from time to time constituted and appointed by such competent electors as herein before specified, shall and may have and exercise all the same powers, privileges, rights and duties respecting the said church, and the care and government thereof, and the administration of the funds, rents and revenues thereof, and all other matters and things relating to the same, as were originally possessed by the church committee, and are at present possessed by the officiating minister, and churchwardens or warden, together with such other powers, privileges, rights and duties, as are hereinafter specified.

*Churchwardens, appointment and duty of.*

11. And be it enacted, that the said vestry shall forthwith on their appointment choose out of their own number two persons, as churchwardens, who shall perform and execute, or cause to be performed and executed, all lawful acts, matters, and things, for the good order and decency of behaviour to be observed in the said church by the congregation thereof, and for providing the said church, (by order and at the charge of the said vestry,) with necessary and customary furniture for the performance of divine service, and for keeping the same clean and in proper repair, and for furnishing the officiating minister with robes suited to his rank or degree in any university or college of the united kingdom, and for preserving to all persons their rights in the pews and sitting in the said church, and for keeping the burial ground appertaining to the said church in decent order, and for discharging all other duties which usually devolve on church-wardens of the united church of England and Ireland, so far as the same may be applicable to this colony.

*Accounts of church monies to be kept, and to be open for inspection.*

12. And be it enacted, that the said churchwardens shall keep an account wherein they shall enter or cause to be entered all sums of money received or paid by them, for and on account of the aforesaid church, and under and by virtue of the provisions of this ordinance, which account shall be opened for the inspection of one or both of the auditors, at all reasonable times, between the hours of nine o'clock in the fore, and five o'clock in the afternoon, and the said account, or a copy thereof, together with any report of the auditor or auditors thereupon, shall be laid before the annual meeting, which shall be holden in conformity with the provisions specified in the first clause of this ordinance, and published for general information, in case



of such publicity being deemed requisite by the persons assembled at such meeting or a majority of them.

Ordinance  
No. 1, 1842.

St. Mary's  
Church  
Port Elizabeth.

*Churchwardens to compel payments;—to make contracts, &c.*

13. And be it enacted, that it shall and may be lawful for the said churchwardens, for the time being, to call in and compel or enforce payment of all sums of money which are or shall be at any time hereafter due and payable on account of the said church, and by virtue of any of the provisions of this ordinance, and in their own names for and on behalf of the said vestry to make and enter into, perform and execute, or compel the performance and execution of all such contracts and agreements, matters and things, as they shall from time to time deem beneficial to the church aforesaid.

*Churchwardens to bring actions &c.*

14. And be it enacted, that it shall and may be lawful for the said churchwardens for the time being, acting as such, to commence and maintain from time to time any suit or action, which they may deem necessary in conformity with the trust reposed in them, against any person or persons whatsoever; and all such suits or actions shall and may be brought by them, in the name of the churchwardens acting for and on behalf of the vestry of St. Mary's Church at Port Elizabeth, and no action shall abate by reason of the death, removal, retirement, or resignation of any individual churchwarden or vestry man.

*Churchwardens to be sued.*

15. And be it further enacted, that all suits or actions which shall arise or accrue to any person or persons whatsoever, from or by reason of any contract, or other matter or thing made or entered into by the said churchwardens in execution of the trust reposed in them, shall be brought by such person or persons, in manner and in name aforesaid, and not against any individual churchwarden or member of the said vestry: provided always, that no such suit or action shall hold or be maintainable against the said churchwardens, as such, for or on account of any thing done, or of any debt contracted by the original church committee, and since the dissolution of that body, by the officiating minister and churchwardens or warden, acting as such previously to the taking effect of this ordinance.

*Administrations of charitable collections, &c.—Accounts thereof subject to inspection.*

16. And be it enacted, that the said churchwardens shall keep or cause to be kept an exact account of all collections of money made from time to time in the said church, for or on account of any charitable or religious purposes connected with the said church and congregation thereof, and of all disburse-

Ordinance  
No. 1, 1842.

St. Mary's  
Church  
Port Eliza-  
beth.

ments made from the same ; and the said churchwardens together with the officiating minister for the time being shall faithfully administer the same, or cause the same to be faithfully administered and appropriated in the manner and for the purposes contemplated and intended by the persons contributing to the same. And the churchwardens' accounts of all such sums as shall be subscribed and collected for charitable purposes, and received in trust by them, in virtue of their office, shall be subject to all the same regulations, and opened for like inspection, as the accounts of the general church fund.

*Churchwardens, continuance in office ;—eligible to be re-elected.*

17. And be it enacted, that the churchwardens appointed as above shall continue in office until the next general annual election of the vestry shall be completed, when they shall deliver up, or cause to be delivered up, to the said vestry, all accounts relating to the general church fund, and to such charities as aforesaid, together with all vouchers, sums of money, or securities held by them in virtue of their office, and the vestry shall then proceed to nominate other churchwardens for the ensuing year ; provided always, that the churchwardens thus vacating office shall be eligible to be re-elected in case they shall be continued as members of the said vestry.

*Vacancies in vestry, how to be filled up.*

18. And be it enacted, that in case any member or members of the vestry shall die, or desire to resign, or shall be removed, or for any other lawful cause shall vacate his or their office, a special general meeting of the surviving or other members of the said vestry shall be called for the purpose of filling up any and all such vacancies as may arise from death, resignation or removal.

*Vacant office of churchwarden, how to be filled up.*

19. And be it enacted, that if either of the said churchwardens shall die or resign, or be removed by the said vestry, or shall from any other lawful cause vacate his office, the meeting of vestry in the last preceding section mentioned, which shall be called for the purpose of filling up the vacancy thereby created in the said vestry, shall also proceed to choose out of the number of the said vestry, in the room of the churchwarden who shall have ceased to hold the office, a new churchwarden who shall continue in office until the time herein fixed for the annual election, and shall in the meantime possess all the powers and perform all the duties appertaining to the said office.

*What Pews to be set apart, and for whom,—free sittings.*

20. And be it enacted, that the four pews already set apart and appropriated to the use of the officers of the garrison, the

chief civil authority of the district, the minister and the churchwardens, all for the time being, shall still continue so set apart and appropriated; and that there shall likewise be reserved in some convenient part of the church, an adequate number of free sittings, for the accommodation of the troops and of poor people; and further, that strangers visiting Port Elizabeth shall be considered as entitled to reasonable accommodation in the pew set apart and appropriated to the churchwardens.

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Port Elizabeth.

*Other pews and sittings, how rented, and rights of holders thereof.*

21. And be it enacted, that all the pews and sittings in the said church, excepting those appropriated and reserved as aforesaid, shall and may be let by the said churchwardens by the year, or for any shorter period, to any person desiring to take the same at a rent to be affixed to them respectively, by the vestry, and payable at such times and in such manner as shall be appointed by the vestry; and the holder of such pew or sitting so rented shall and may possess and occupy the same by himself, herself, or by his or her assigns, without hindrance or disturbance by any person whatsoever, until the end of the said term, provided that the holder of such pew or sitting shall continue to pay the rent affixed to the same, at the times whereon, and in the manner in which the same shall be made payable and provided always that nothing in this section shall be construed to interfere with any persons who do at present, or who may hereafter, hold free pews or sittings on the ground of office.

*Remedy if pew rents are in arrear twenty-eight days.*

22. And be it enacted, that it shall and may be lawful for the churchwardens, whenever it shall happen that the rent of any pew or sitting is in arrear and unpaid for the space of twenty-eight days after the same shall have become due and payable, and shall have been legally demanded, to give notice to the possessor of such pew or sitting forthwith to quit and give up possession of the same; and thereupon it shall and may be lawful for the said churchwardens, acting as aforesaid, to re-enter into possession of the said pew or sitting, for the purposes of this ordinance, without any other form or proceeding whatever; provided, however, that nothing herein contained shall extend or be construed to deprive the said churchwardens of the right to recover the amount of such rent so in arrear, by action, as aforesaid, in any competent court.

*Pew-book to be kept.*

23. And be it enacted, that the said churchwardens, acting as aforesaid, shall keep a book, to be called the "Pew Book," wherein they shall enter, or cause to be entered, the name of every person applying for either a pew, sitting, or sittings, in



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Church  
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the said church, together with the date of such application, and that on any pew, sitting, or sittings becoming vacant, either by death, resignation, removal, or in any other way, or in case of the erection of any new pew or pews, or seats, in any part of the said church, the churchwardens for the time being shall forthwith apprise the applicant whose name shall stand first on the pew book, of the vacancy so caused, or of the new pew, pews, or seats so erected, and shall offer the said pew, seat, or seats, to such applicant, on condition that he or she shall covenant and engage to pay the rent of the same, affixed and made payable as hereinbefore mentioned, and that the said pew, sitting, or sittings, so becoming vacant, or the said pew or pews, seat or seats, so newly erected, shall not be offered to any person whatsoever, whose application for the same, or any portion of the same, shall bear a later date, until it shall have been declined by every applicant preceding such person on the pew book.

*Rites to be observed at burials,—no burials allowed within the church.*

24. And be it further enacted, that no burial shall take place in the burial ground at present unconsecrated and allotted, or which may hereafter be consecrated and allotted as burying ground to the said church, unless the said burial be performed after the rites and ceremonies of the united church of England and Ireland, and that no burial shall take place in, or under the said church.

*Monuments and vaults,—fees payable for same.*

25. And be it enacted, that it shall and may be lawful for the officiating minister and churchwardens for the time being to permit any monument or inscription to be erected or placed in such convenient parts of the said church, or of the ground which may be inclosed about the same, or in the burial ground belonging thereunto, or vaults to be dug and made in the said burial ground, upon payment to the funds of the said church for such permission, such a sum as shall be affixed by the said vestry for such permission according to the terms thereof.

*Rights of owner of monument or vault.*

26. And be it enacted, that it shall and may be lawful for any person or persons erecting or placing any monument or inscription in the said church, or within the ground which may be enclosed about the same, or in the burial ground belonging thereunto; or digging or making any vault in the said burial ground by and by virtue of such permission as aforesaid, to have, maintain and keep up such monument, inscription, or vault according to the terms of such permission, to and for the sole and separate use of the said person or persons, and his or

their heirs for ever: provided always, that in case any such monument, inscription, or vault as aforesaid, be suffered to fall into decay, or to become effaced or neglected, and the person or persons at whose cost and charges the said monument, inscription, or vault was erected, placed, or constructed, shall decline to repair and keep the same in proper order, it shall and may be lawful for the officiating minister and churchwardens for the time being after a general notice of their intention, to remove and efface the same.

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No. 1, 1842.

St. Mary's  
Church,  
Port Elizabeth.

*Public ordinance.*

27. And be it enacted, that this Ordinance shall be deemed and taken to be a public ordinance, and as such shall be judicially taken notice of by all judges, magistrates and others, without being specially pleaded.

*God save the Queen!*

Given at the Cape of Good Hope, this 3d day of March 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk to the Legislative Council.

No. 2, 1842.—Signed, Geo. Napier.

*Ordinance, for authorising the appointment of a Vestry and Churchwardens for Sidbury Church. (1)*

*Preamble.*

WHEREAS it is expedient that the inhabitants of Sidbury and the parochial limits thereof, being members of, and holding communion with the united church of England and Ireland, as there by law established, should be invested with the right and privilege of choosing and appointing, under certain regulations, a vestry and churchwardens, for the better and more effectual administration and management of all matters connected with the episcopal church at Sidbury, recently erected; and that the said vestry and churchwardens, after having been duly appointed, should possess certain powers and perform certain duties, as the same are usually possessed and exercised by such officers, according to the customs and usages of the said united church of England and Ireland; and whereas on the appointment of the said vestry and churchwardens, it is expedient that the office of trustees as at present constituted, should cease and determine:

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No. 2, 1842.

Sidbury  
Church.

(1) Sanctioned and allowed by the Queen, *vide* Proclam. 20th July 1843.

*Annual general meeting for election of a vestry.*

1. Now, therefore, be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that on the first Tuesday in Easter week, after the passing of this ordinance, and annually afterwards on the same day, a general meeting of the male inhabitants of Sidbury aforesaid, and of the parochial limits thereof, being of the age of twenty-one years or upwards, and members of, and holding communion with, the united church of England and Ireland, as there by law established, shall be holden at Sidbury, fourteen days' notice whereof shall be given by the minister of the said church for the time being, by promulgation during divine service, and by notice posted on the doors of the church, or by advertisement in one of the public papers of this colony, for the purpose of electing a vestry; and it shall and may be lawful for the inhabitants as aforesaid, or the greater part assembled at such meeting, to elect from among themselves any number of persons, not exceeding eight, in manner and subject to the provisions hereinafter mentioned, who, together with the officiating minister for the time being, shall form a vestry, charged with the duties, and invested with the powers hereinafter mentioned.

*Election of Auditors.*

2. And be it further enacted, that two other persons, not being members of the said vestry, shall likewise be elected at such meeting as aforesaid, to be auditors of the accounts of the said vestry.

*Qualification of members of Vestry.*

3. And be it further enacted, that every male inhabitant householder, being of the age of twenty-one years or upwards, and a member of, and holding communion with, the church aforesaid, and residing at Sidbury, or within the parochial limits thereof, shall be eligible to be a member of the said vestry. Provided always, that no person shall be entitled to vote at such election, or be eligible to be chosen a member of the vestry, or an auditor of accounts thereof, so long as (legal demand having previously been made) any just claim had upon him by the said vestry, as such, shall remain unsatisfied.

*List of persons eligible to lie open for inspection.*

4. And be it enacted, that a list of all persons eligible, according to the provisions of the foregoing section, shall be prepared by the officiating minister so long as there are no churchwardens appointed, and when churchwardens shall have been appointed, as is hereinafter provided, then by the minister and churchwardens conjointly, and shall be open for the inspection of all persons entitled to vote at the election of the said vestry



and auditors, at least fourteen days before any election is to take place.

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Sidbury  
Church.

*Elections, how carried on.*

5. And be it further enacted, that at every such general meeting as aforesaid, the election shall be carried on by lists duly signed by such inhabitants as aforesaid respectively, and containing the names of the persons for whom they vote to be elected as vestry-men, and as auditors.

*Appointment of chairman.*

6. And be it further enacted, that the officiating minister for the time being, shall preside as chairman at the meetings of the said vestry, provided that in his absence from any such meeting, one of the other members shall be chosen to act as chairman; and in case the votes of the said vestry be equally divided, the chairman, or acting chairman, shall have a casting vote in addition to his own.

*Five members a quorum.*

7. And be it further enacted, that five members of the said vestry, or four members besides the chairman, shall form a quorum, and shall be competent to perform all matters and things which may be done by the vestry, under and by virtue of any of the provisions of this ordinance.

*Rules, &c. for management of church.*

8. And be it further enacted, that it shall and may be lawful for the said vestry, so from time to time constituted and appointed, to frame, adopt, alter, or rescind such rules, orders, and by-laws, as may to them appear expedient for their guidance in the discharge of their duties, and for more effectually executing the provisions of this ordinance, and also to take such order for the management of the said church, as shall to them seem expedient,—provided that the said rules, orders, or by-laws, contain nothing repugnant to law, or to the tenor of this ordinance, or to the customs and usages of the united church of England and Ireland, as there by law established.

*Abolition of trustees.*

9. And be it enacted, that the said trustees shall, upon the appointment of the said vestry, deliver over to the said vestry all deeds, books, and papers, relating to the church, in their custody or power, and all sums of money in their possession or control: and the office and duties of the said trustees shall thereupon cease and determine.

*Vestry to have the same power as trustees.*

10. And be it enacted, that the said vestry so from time to time constituted and elected, by such members of the said church as aforesaid, shall and may have and exercise all the

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same powers, and rights, and duties, respecting the said church, and the care and government thereof, and the administration of the funds, rents, and revenues thereof, and all other matters and things relating to the same, as are now possessed and exercised by the trustees, together with such other laws, and rights, and duties, as are hereinafter specified.

*Vestry to compel payments; to make contracts, &c.*

11. And be it enacted, that it shall and may be lawful for the said vestry for the time being, to call in and compel payment of all sums of money which are or shall be at any time hereafter due and payable to their order, by virtue of any of the provisions of this ordinance, and, in their own names, to make and enter into, perform and execute, or compel the performance and execution of, all such contracts and agreements, matters and things, as they shall from time to time deem necessary for the good of the church aforesaid.

*Actions by vestry, how to be brought.*

12. And be it further enacted, that it shall and may be lawful for the said vestry, as such, from time to time, to commence and maintain all such suits and actions in any competent court in this colony, as they shall deem necessary in performance of the trust reposed in them, against any person whatsoever; and all such suits and actions shall and may be brought by them in the name of the vestry of the episcopal church at Sidbury, without specifying the christian or surnames of the members of the vestry, and no action shall abate by reason of the death or removal, or going out of office of any individual members thereof.

*Actions against vestry, how to be brought.*

13. And be it enacted, that all suits or actions, the cause of which shall arise or accrue to any person whatsoever, from or by reason of any contract, or other matter or thing made or entered into, or performed, by the said vestry, in the execution of the said trust, or shall arise or accrue to any person whatsoever against the said vestry, shall be brought by such person in manner and in name aforesaid, and not against any individual member of the said vestry.

*Accounts of vestry, how to be kept and inspected.*

14. And be it enacted, that the said vestry shall keep an account, wherein they shall enter money received and paid by them, under and by virtue of the provisions of this Ordinance; which account the auditors, or either of them, may inspect at all reasonable times. And the said account, together with any report of the auditors, or either of them, thereon, shall be laid before the members holding communion with the said church, at

the general annual meeting aforesaid, and published, if requisite, for general information.

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Church.

*Churchwardens, appointment and duty of.*

15. And be it enacted, that the said vestry shall forthwith, on their appointment, or as soon as conveniently may be, choose, out of their own number, two persons to be churchwardens, who shall perform and execute all lawful acts, and matters and things, for the good order and decency of behaviour to be kept in the said church by the congregation thereof, and for preserving to all persons their rights in the pews and sittings thereof, and providing the said church (by order and at the charges of the said vestry,) with necessary and customary furniture for the performance of divine service, and for keeping the same clean and in proper repair, and for keeping the burial ground attached to the said church in decent order and properly fenced, and for discharging all other duties which usually devolve on churchwardens in the United Church of England and Ireland, so far as the same may be applicable to this colony.

*Administration of charitable collections, &c —Accounts thereof subject to the same rules as accounts of vestry.*

16. And be it further enacted, that the said churchwardens shall keep an exact account of all collections of money made from time to time in the said church for any charitable or religious purposes connected with the said church or congregation; and the said churchwardens, together with the officiating minister for the time being, shall faithfully administer the same, or see that they be faithfully administered and appropriated, in the manner and for the purposes contemplated and intended by the persons contributing to the same. And the churchwardens' accounts of all such sums as shall be subscribed and collected for charitable purposes, and received in trust by them, in virtue of their office, shall be subject to all the same regulations as the general church fund and accounts of the vestry.

*Churchwardens, continuance in office of;—Annual nomination of.*

17. And be it enacted, that the churchwardens appointed as above shall continue in office until after the next general annual election of the vestry is completed,—when they shall deliver up to the said vestry all accounts of such charities as aforesaid, duly audited, together with all vouchers, sums of money, or securities held by them, in virtue of their office; and the vestry shall then proceed to nominate other churchwardens for the ensuing year; provided always that the churchwardens thus vacating office shall be eligible to be re-elected in case they are continued as members of the vestry.

*Vacancies in vestry, how to be filled up.*

18. And be it further enacted, that in case any member of



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the vestry shall die, or desire to resign, or shall be removed, or for any other lawful cause shall vacate his office, it shall and may be lawful for the surviving or other members of the said vestry to decide whether a special general meeting shall be called for the purpose of electing another member in the place of the one so dying, or desiring to resign, or being removed, or whether his place shall remain vacant until the next general annual meeting to be holden as aforesaid. Provided always, that in case the members of the said vestry decide that a special general meeting shall be holden for the purpose aforesaid, the same notice shall be given thereof, and the same proceedings shall be observed thereat, as in case of the general annual meeting is provided.

*What pews to be set apart, and for whom,—Free sittings.*

19. And be it enacted, that there shall be set apart in the said church two free pews, one to be allotted to the use of the minister, and the other to that of the churchwardens; and that a proportion, namely, one third of the remaining accommodation in the church be reserved as free sittings for the poor.

*Other pews and sittings, how rented, and rights of holders thereof.*

20. And be it further enacted, that all the pews and sittings in the said church, with the exception of those allotted and reserved as aforesaid, shall and may be let by the vestry, by the year, or for any other shorter period, to any person desiring to take the same, at a rent to be affixed to them respectively by the vestry, and payable at such times and in such manner as shall be appointed by the vestry; and the holder of any pew so rented shall and may possess and occupy the same by himself or his assigns, without hindrance or disturbance by any person whatsoever until the end of the said term, provided he shall continue to pay the rent affixed to the same at the times whereon and in the manner in which the same shall be made payable; provided always, that nothing in this section shall be construed to interfere with the claims of any person at present holding sittings in the church.

*Remedy, if pew rents be in arrear twenty-eight days.*

21. And be it enacted, that it shall and may be lawful for the vestry, whenever it shall happen that the rent of any pew or sitting is in arrear and unpaid for the space of twenty-eight days after the same is due and payable, to give notice to the possessor of such pew forthwith to quit and give up possession thereof; and thereupon it shall and may be lawful for the said vestry to re-enter into the possession of the said pew for the purposes of this ordinance, without any other form or proceeding whatever: provided however, that nothing herein contained shall extend

or be construed to deprive from recovering the amount of such rent in arrear by action in any competent court.

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Sidbury  
Church.

*Burials not allowed within the church, but in the burial ground.*

22. And be it further enacted, that no burial shall take place within or under the said church, but the burials of all persons, according to the rites and ceremonies of the church of England, shall take place in the burial ground consecrated and allotted, or which may hereafter be consecrated and allotted to the said church for that purpose.

*Monuments and vaults,—fees payable for same.*

23. And be it enacted, that it shall and may be lawful for the officiating minister and churchwardens for the time being, to permit any monument to be erected or placed in such convenient parts of the said church, or of the inclosed ground about the same, or in the burial ground belonging thereto, or vaults to be dug and made in the said burial ground, upon payment to the fund of the said church for such permission, of such reasonable fee as shall be affixed by the said vestry for such permission, according to the terms thereof.

*Rights of owner of monument or vault.*

24. And be it further enacted, that it shall and may be lawful for any person or persons erecting or placing any monument in the said church, or digging, or making any vault in the said burial ground, by and with such permission as aforesaid, to have, maintain, and keep up such monument or vault according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever: provided always, that in case any such monument as aforesaid is suffered to fall into decay, and the person or persons to whom the said monument appertains, neglect to repair the same, it shall and may be lawful, after a general notice of such intention, to remove the same.

*Public ordinance.*

25. And be it enacted, that this Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of by all judges, magistrates and others, without being specially pleaded.

*God save the Queen!*

Given at the Cape of Good Hope, this 3rd day of March 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk to the Legislative Council.

Ordinance  
No. 3, 1842.

Continuing  
provisions of  
Ordinance  
No. 97.

No. 3, 1842.—Signed, George Napier.

*Ordinance, for continuing the provisions of an Ordinance bearing date the 14th day of February 1833, entitled "An Ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain Lands and Houses, to procure the same to be enregistered as their property in the Land Register."*<sup>(1)</sup>

*Preamble,—Memorials lodged since 31st Dec. 1840, to be deemed duly lodged.*

WHEREAS it is enacted by an Ordinance bearing date the 14th February 1833, entitled "an ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain Lands and Houses, to procure the same to be enregistered as their property, in the land register," that no such memorial as therein mentioned shall be received or acted upon by the committee nominated and appointed by His Excellency the Governor, under and by virtue of the provisions of the said ordinance, which shall not be lodged with the secretary of the said committee, on or before the 31st December 1833.—And whereas by certain other ordinances since successively made and passed in this colony, whereof the last bore date the 26th May 1836, and was entitled in manner and form as this present ordinance, the period within which it should be lawful for the said committee to receive and act upon such memorials as aforesaid, which should be lodged with the secretary thereof, was prolonged from time to time till the 31st December 1840. And whereas certain of such memorials as aforesaid have been lodged with the said secretary, and received and acted upon by the said committee, since the said 31st December 1840, and it is expedient to ratify, sanction, and declare valid, the lodging, receiving, and acting upon the said certain memorials, so as aforesaid lodged, received, and acted upon, and also to provide a further period within which such memorials as aforesaid may be lodged with the secretary aforesaid, in order to their being received and acted upon by the said committee. Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that every such memorial as aforesaid, which has at any time since the said 31st December 1840, been lodged with the secretary of the said committee, in order that the same should be received and acted upon by the said committee; and every matter and thing done and transacted, or which may hereafter be done and transacted, by the said committee, in regard to any such memorials, shall respectively be held and taken to be in precisely the same state

<sup>(1)</sup> Vide vol. 2. p. 212, see infra p. 206.



and condition, and to be to all intents and purposes as valid and effectual in the law as if the period limited by the said ordinance of the 26th May 1836, for the lodging of such memorials as aforesaid, in order to their being lawfully received and acted upon by the said committee, had continued hitherto and were still unexpired.

Ordinance  
No. 3, 1842.

Continuing  
provisions of  
Ordinance  
No. 97.

*Provisions of Ordinance 97 continued till 31st December 1850.*

And be it enacted, that it shall and may be lawful for the said committee, to receive and act upon all such memorials as aforesaid which shall be lodged with the secretary thereof, on or before the 31st December 1850; any thing in any former ordinance contained to the contrary notwithstanding.

*God save the Queen!*

Given at the Cape of Good Hope, this 26th day of March 1842.

By command of His Excellency the Governor,

(Signed)

J. Moore Craig,

Acting Secretary to Government.

By Order of the Legislative Council,

(Signed)

K. B. Hamilton,

Clerk to the Legislative Council.

No. 4, 1842.—Signed, Geo. Napier.

*Ordinance, to declare certain immoveable property belonging to the colonial government to be exempt from municipal taxation.<sup>(1)</sup>*

*Preamble,—Municipal rates not to be assessed on government property.*

WHEREAS it is expedient that certain immoveable property belonging to the colonial government should be declared to be exempt from liability to be taxed, or rated for municipal purposes, and also that provision should be made in respect of the imposition and payment of such reasonable rate or rates as may be approved of by the governor of this colony for the time being, in connection with water supplied through the instrumentality of any municipal board to such property aforesaid: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that it shall not be competent for any meeting of householders, or any other persons in any town, village, or other place in which a municipal board may have already been, or may hereafter be established, whether under ordinance No. 9, 1836, or any other ordinance, to assess, levy or legally demand, any rate or charge upon any

Ordinance  
No. 4, 1842.

Exempting  
Govt. Prop.  
from Municipal  
taxation.

<sup>(1)</sup> Disallowed by the Queen, *vide* Proclamation, 20th July 1843, and repealed by Ordinance No.—

Ordinance  
No. 4, 1842.

Exempting  
Govt. Prop.  
from Municipal  
taxation.

immovable property situate within any municipality, and belonging to the colonial government, and not occupied as dwelling houses, and further, that no such rate or charge shall be assessed, levied, or legally demanded, in respect of the certain dwelling houses or inhabited premises following, (so long as the same shall respectively belong to the said colonial government,) that is to say—the government house in Cape Town,—the residence provided for his honor the lieutenant-governor in Graham's Town,—the dwellings of such civil commissioners as do or shall occupy houses the property of the said colonial government,—and all buildings used as public prisons, or as residences for police.

*Water-rates to be approved of by the governor and executive council.*

And be it further enacted, that it shall and may be lawful for the governor of this colony for the time being, with the advice of the executive council thereof, to sanction and approve of the payment, out of the colonial revenue, of all such reasonable rates connected with the supply of water to such portions of the immoveable property herein before mentioned and exempted from municipal taxation, as shall appear to the said governor to be rightly and properly chargeable with such rates in aid of the funds of any municipality; but no such rate shall be imposed or levied in respect of the supply of water to any such immoveable property as aforesaid without the previous sanction and approval of the said governor.

*God save the Queen!*

Given at the Cape of Good Hope, this 26th day of March, 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk to the Legislative Council.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, K.C.B., &c. &c.*

Proclamation  
April 21, 1842

Committee  
under  
Ord. No. 97.

WHEREAS it is enacted by ordinance No. 97, bearing date the 14th day of February 1833, that it shall and may be lawful for the governor of this colony to nominate and appoint certain fit and proper persons to form a committee, for the purpose of hearing, investigating, and reporting upon all claims lodged with the secretary of the said committee on or before the 31st December 1833, by persons having, or claiming to have, just, lawful, and undisputed right to certain lands situate within this colony, to procure the same to be registered as their property in

the land register; and that the said committee shall consist of five persons, who shall be, from time to time, nominated and appointed by proclamation to be for that purpose issued by the said governor, and shall subsist and continue in office until the same shall by any proclamation for that purpose issued by the said governor, be declared to have ceased and determined:

Proclamation  
April 21, 1842

Committee  
under  
Ord. No. 97.

And whereas by certain other ordinances enacted by the governor, by and with the advice of the legislative council of the colony, the provisions of the said ordinance No. 97, were continued in force for the respective periods in the said several ordinances mentioned, and by the last of which, namely, No. 2, bearing date the 25th day of March last past, the period for the presentation and lodgment with the secretary, of such claims as aforesaid, was prolonged and extended until the 31st day of December 1850:

Now, therefore, in pursuance, and by virtue of the powers vested in me by the said ordinance No. 97, and the subsequent ordinances herein before alluded to,—I do hereby proclaim and make known that the committee nominated and appointed on the 28th day of February 1833, by the then governor, the Hon. Sir G. Lowry Cole, G.C.B., has ceased and determined, and that I have appointed, and do hereby nominate and appoint,

The Hon. John Moore Craig, acting secretary to government.<sup>(1)</sup>

The Hon. Harry Rivers, acting treasurer and accountant general.

The Hon. Pieter Gerhard Brink, auditor general.

The Hon. William Porter, attorney general of this colony, and Petrus Borchardus Borchers, Esq. civil commissioner and resident magistrate for Cape Town and Cape District, to form the committee for the purposes aforesaid, and for doing all such matters and things, as by virtue of the said ordinance No. 97, the said committee and the members thereof are empowered and requested to do: provided always that if they or any of them shall vacate their or his office by resignation or otherwise, they or he shall *ipso facto* cease to be members or member of the said committee, unless reappointed thereto by proclamation of the governor for the time being.

And I hereby further direct, order, and appoint that the first meeting of the said committee shall be holden in the court hall of the supreme court, on the third of May ensuing.

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at the Cape of Good Hope, this 21st Day of April 1842.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

(1) The Hon'ble Mr. Montagu was here substituted on his arrival.



Ordinance  
No. 5, 1842.

Lodgment of  
monies in  
Bank other  
than Govt.  
Bank.

No. 5, 1842.—Signed, Geo. Napier.

*Ordinance, to provide for the lodgment elsewhere than in the Government Discount Bank of this colony, of certain Monies now by law required to be lodged in the said Bank. (1)*

*Preamble,—Accounts not to be opened in government discount bank.*

WHEREAS by the Ordinance No. 64, entitled “An ordinance for regulating the due collection, administration, and distribution of insolvent estates within this colony,” it is provided, that the trustee or trustees of any insolvent estates shall, in a certain event in the said ordinance mentioned, open an account with the government discount bank of this colony, and shall pay into the said bank the certain sum or sums of money in the said ordinance particularly stated; and whereas by an ordinance bearing date the 1st day of September, 1829, entitled “An ordinance for authorising a sum of money to be raised in shares for erecting an English church at Cape Town,” it is provided, that the trustees therein mentioned shall, in a certain event therein specified, open an account with the said government discount bank, and from time to time, pay into the said bank the certain sum and sums of money in the said ordinance particularly stated; and whereas by an ordinance bearing date the 11th day of November, 1833, entitled “An ordinance for authorising a sum of money to be raised in shares for building a church at Wynberg,” it is provided, that the trustees therein mentioned shall, in a certain event therein specified, open an account with the government discount bank aforesaid, or with the savings’ bank in this colony, and from time to time, pay into either of the said banks, the sum and sums of money in the said ordinance particularly stated; and whereas by the ordinance No. 97, (continued or re-enacted by certain other ordinances,) and entitled an “ordinance for enabling certain persons, having respectively the just, lawful, and undisputed right to certain lands and houses, to procure the same to be enregistered as their property in the land register,” it is provided, that any sum which should by virtue of certain sections of the said ordinance be paid to the registrar of deeds, should forthwith be paid into the said discount bank, by the said registrar of deeds, to the credit of certain person or persons in the said ordinance mentioned; and whereas by the Ordinance No. 8, 1836, entitled “An ordinance for providing for the better and more effectual management of the public library in Cape Town,” it is provided, that the treasurer of the said library for the time being shall, at the period in the

(1) Erroneously stated to be disallowed by the Queen, *vide* Proclamation 20th July 1843;—but allowed by the Queen, *vide* Proclamation, 21st July 1843.

(2) *Vide* Ordinance No. 6, 1843, *infra*.

said last mentioned ordinance provided, open an account with the bank aforesaid, and pay over to the cashier thereof, the sum and sums of money in the said ordinance particularly stated; and whereas it is expedient to make provision by law, for relieving the said government discount bank from the obligation of receiving the several monies hereinbefore mentioned, as well as for the paying into some bank or banks other than the said last mentioned bank, of all and singular the said several monies: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the passing of this ordinance it shall not be incumbent upon the trustee or trustees of any insolvent estate, or any trustees of either of the two churches aforesaid, or the registrar of deeds in this colony, or any treasurer of the library aforesaid, for the time being, to open an account with the said government discount bank, or to pay into the said bank any sum or sums of money whatsoever, nor shall it be incumbent upon the said bank to permit or allow the opening of any such account, or to receive from any such trustee or trustees of any insolvent estate, or treasurer of such library, or trustees of either of the said churches, any sum or sums of money whatsoever;—any thing contained in any of the ordinances hereinbefore mentioned to the contrary in anywise notwithstanding.

Ordinance  
No 5, 1842.

Lodgment  
of monies in  
Bank  
other than  
Govt. Bank.

*Creditors of insolvent estates to appoint banks for the lodgment of monies of such estates.*

2. And be it enacted, that from and after the passing of this ordinance it shall and may be lawful for, and shall be the duty of, the creditors of any insolvent estate, at the meeting held for the election of trustees, immediately after such election, in case such election shall take place at such meeting; and, in case such election shall not then take place, then immediately after the votes of the said creditors in regard to such election shall have been given, to nominate and appoint some certain bank or banks, within this colony, with which bank or banks it shall be the duty of the trustee or trustees of such estate to open an account, instead of opening such account with the government discount bank, and into which bank or banks the certain sum or sums of money now by law required to be paid into the said discount bank shall be paid, and, in case of a difference of opinion amongst the said creditors assembled at such meeting, the greater part in value of the said creditors shall determine upon the bank or banks to be so nominated and appointed as aforesaid, and from and after any such nomination and appointment of any such bank or banks the trustee or trustees of such insolvent estate, whether chosen by the creditors or provisionally appointed, shall open an account with such bank or banks, and pay into the same every sum of money received by such trustee or trus-

Ordinance  
No. 5, 1842.

Lodgment  
of monies in  
Bank  
other than  
Govt. Bank

tees belonging to the said estate, and draw any such money out of the said bank or banks, under the same conditions, penalties and provisions in all respects precisely as if, in the 76th and 77th sections of the Ordinance No. 64, the name or names of such bank or banks so nominated and appointed were substituted for the name of the said government discount bank wherever the said last mentioned name occurs.

*Provisional trustees to open account with banks nominated by supreme court.—Accounts may be transferred by order of creditors.*

3. And be it enacted, that if any trustee or trustees shall, before the meeting of creditors for the election of trustees, be appointed under and by virtue of the 46th section of the said Ordinance No. 64, to act provisionally in the collection, administration and distribution of any insolvent estate, such provisional trustee or trustees shall, under the same conditions, penalties and provisions as aforesaid, open an account with, and pay all sums of money into, and draw all sums of money out of, such bank or banks, as shall in that behalf be nominated and appointed by the order of court appointing such provisional trustee or trustees, but from and after the meeting of creditors for the election of trustees such provisional trustee or trustees shall, until removal, obey such directions relative to the deposit of the monies belonging to the estate as shall, in the manner in the last preceding section mentioned, be given by the said meeting; and in case the bank or banks nominated and appointed by such meeting shall be different from the bank or banks nominated and appointed by such order of court, such provisional trustee or trustees is hereby authorised and required forthwith to draw out of the bank or banks last mentioned all monies which may then be deposited therein belonging to the said estate, and forthwith to pay the same into the bank or banks nominated and appointed by the meeting of creditors in manner aforesaid, there to remain in the same condition as all other monies paid into such bank or banks belonging to such insolvent estate.

*Monies remaining in government discount bank, to be drawn out within 14 days from promulgation of ordinance.*

4. And be it enacted, that the trustee or trustees, whether provisional or otherwise, of any insolvent estate, belonging to which estate there shall, at the passing of this ordinance, be any monies remaining deposited in the said government discount bank, shall within fourteen days after the promulgation of this ordinance call a general meeting of the creditors of such estate and require their directions touching and concerning the disposal of the monies so remaining deposited as aforesaid, and it shall be the duty of such meeting to nominate and appoint some bank or banks within this colony, other than the said govern-



ment discount bank, with which an account shall be opened, and into which all such monies so remaining deposited in the bank last mentioned, and all monies to be afterwards received by the said trustee or trustees shall be paid, and the said meeting shall, as far as practicable, proceed in the same manner to nominate and appoint, and the nomination and appointment thereof shall have the same operation and effect, as is herein before directed and provided with respect to the meeting for the election of trustees.

*As to deposits not exceeding £20.*

5. And be it enacted, that any trustee or trustees, whether provisional or otherwise, of any insolvent estate, belonging to which estate there shall not, at the passing of this ordinance, be any monies remaining, deposited in the said government discount bank, shall so soon as he or they shall have received any sum of money exceeding twenty pounds belonging to the said estate, call a general meeting of the creditors of such estate, and require their directions touching and concerning the disposal of the said sum of money, and such meeting shall nominate and appoint some bank or banks in the manner and for the purposes in the last preceding section mentioned, just as if the sum of money received as aforesaid had been a sum of money remaining deposited as in the said section contemplated and provided for.

*Trustees of English church at Cape Town, and of church at Wynberg, within 14 days, to open accounts with some bank other than the government discount bank;—but trustees of Wynberg church not bound to resort to any bank.—How funds in government bank to be drawn out.—Authorized from time to time to change bank of deposit.*

6. And be it enacted, that the respective trustees for the time being, appointed under and acting in pursuance of either of the two ordinances herein before mentioned, and relating respectively to an English church at Cape Town and a church at Wynberg, shall, within fourteen days next after the promulgation of this ordinance, select and appoint some bank or banks in this colony, other than the said government discount bank, with which bank or banks an account shall be opened, and into which the monies belonging to the church fund of each of the said churches respectively shall be payable; and from and after the selection and appointment of such bank or banks, the trustees respectively of the said churches respectively, shall open an account with such bank or banks, and pay into the same every sum of money received by such trustees, and draw such money out of the said bank or banks, under the same conditions, penalties and provisions in all respects precisely as if in the 23rd and 24th sections of the said ordinance, relating to the said church at Cape Town, and in the 22nd and

Ordinance  
No. 5, 1842.

Lodgment  
of monies in  
Bank  
other than  
Govt. Bank.

23rd sections of the said ordinance, relating to the said church at Wynberg, the name or names of such banks or banks so elected and nominated, were substituted for the name of the said government discount bank, wherever the said last mentioned name occurs; provided always, that the trustees of the said church at Wynberg shall not be obliged to select or nominate any such bank or banks as aforesaid, unless they shall deem it expedient so to do; and provided also, that, as soon as possible after any such selection and appointment as aforesaid, the said trustees respectively shall, and they are hereby authorised, by a cheque or order, to be signed by the said trustees respectively, or by two of each respective set of trustees, for themselves and co-trustees, to draw out of the said government discount bank all the funds which shall then be deposited therein, belonging to either of the before mentioned church funds, and to lodge the same in such bank or banks as shall have been selected and appointed; and in case no such selection or appointment shall be made by the trustees of the Wynberg church aforesaid, the funds to be so drawn, as aforesaid, out of the said government discount bank, shall be lodged in the savings' bank of this colony; and provided, lastly, that it shall be lawful for the trustees respectively of the two above mentioned respective churches, and they are hereby authorised, from time to time, as often as they shall think fit, to change the bank or banks, in which the church funds shall be deposited, and from time to time, to draw the same by means of such cheques, as is in the section mentioned, out of any one bank, and then to lodge the same in any other bank as they shall in their discretion, deem fit and proper.

*Registrar of Deeds to lodge certain monies under direction of land registry committee.—Interest may be taken by Committee.*

7. And be it enacted, that when under and by virtue of the 19th, 21st, and 22d Sections of the ordinance No. 97, hereinbefore mentioned, any sum shall be paid to the registrar of deeds, the said registrar shall forthwith pay said sum into such bank or banks in this colony as shall in that behalf from time to time be nominated and appointed by the committee for the time being, in the said ordinance mentioned; and it shall be, and is hereby declared to be, the duty of the said committee to nominate and appoint from time to time, as they shall think proper, such bank or banks, and such sum or sums as may be therein deposited, shall remain there to the credit of the person or persons in the 23d section of the said ordinance mentioned, precisely in the same manner as but for this ordinance such sum or sums would have remained in the said discount bank, save and except that it shall be lawful for the said committee to require, and for the bank or banks which they shall

nominate and appoint, to allow, upon such sum or sums, such rate of interest as may be agreed upon, which interest shall be claimable on demand by such person or persons as shall, by law, be entitled to demand the principal of the said sum or sums; anything in the said 23d section of the said ordinance to the contrary notwithstanding.

Ordinance  
No. 5, 1842.

Lodgment  
of monies in  
Bank  
other than  
Govt. Bank.

*Committee of public library, within 14 days to open account with some bank other than the government discount bank.—How to withdraw funds from government discount bank.—Committee, from time to time, may select bank for deposits.—Treasurer required to pay into bank selected by committee.*

8. And be it enacted, that the committee of the public library in Cape Town shall, within fourteen days next after the promulgation of this Ordinance, select and appoint some bank or banks within this colony, other than the government discount bank, with which bank or banks the treasurer of the said library shall open an account, and into which the said treasurer shall pay all sums which he may receive on the library account, as soon as possible after the receipt thereof; and when and as soon as such bank or banks shall be selected and appointed by the said committee, the said treasurer shall, and he is hereby authorised, by a cheque upon the said discount bank, signed by the said treasurer, and countersigned by the chairman of the said committee for the time being, to draw forthwith out of the said discount bank all the funds, then deposited therein, belonging to the said library, and forthwith to lodge the same in the bank or banks, which shall be selected and appointed by the said committee as aforesaid; and it shall be competent for the committee of the said library for the time being, to select and appoint from time to time, such bank or banks, for the deposit of the funds of the said library, as they shall deem most expedient, and, from time to time, to direct the treasurer of the said library, for the time being, to remove the said funds from any given bank or banks, to any other bank or banks which the said committee shall select and appoint; and the treasurer of the said library, for the time being, is hereby authorised and required, from time to time, to pay into such bank or banks as the said committee shall select and appoint, all sums which he may receive on the library account, at such time and under the like penalty, in case of default, as in the 9th section of ordinance No. 8. 1836, are mentioned and provided; and the said treasurer for the time being is further authorised and required, whenever he shall be to that effect directed by the committee of the said library for the time being, to remove all such sums belonging to the said library as shall be deposited in any particular bank or banks, to such other bank or banks as the said committee shall select and appoint, and such removal of the



Ordinance  
No. 5, 1842.

Lodgment  
of monies in  
Bank  
other than  
Govt. Bank.

said funds shall be made as aforesaid, by means of checques, to be drawn by the treasurer, and countersigned by the chairman of the committee for the time being.

*God save the Queen!*

Given at the Cape of Good Hope, this 4th Day of May, 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government:

By Order of the Legislative Council,

(Signed) K. B. Hamilton,

Clerk to the Legislative Council.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

WHEREAS by an act of parliament, passed in the 6th year of the reign of his late majesty king George the Fourth, (cap. 69), it is enacted that it shall and may be lawful for his majesty by any order or orders to be by him, from time to time, for that purpose issued, by and with the advice of his privy council, to appoint, or by such order or orders to authorise the governors, or other persons for the time being administering the government of any of his majesty's foreign possessions or colonies, to appoint the place or places, being within his majesty's dominions, to which any offender convicted in any such foreign possessions or colonies, and being under sentence or order of transportation, shall be sent or transported; and that all such convicts shall, within the place or places to which they shall be so sent or transported, in pursuance of such order or orders in council, be subject and liable to the same laws and regulations as are or shall be in force in any such place or places, with respect to convicts transported from Great Britain:

And whereas his said late majesty, by an order by him issued by the advice of his privy council, on the 11th day of November 1825, in pursuance of the said act of parliament, did order that the governors, or other persons for the time being administering the government of any of his majesty's foreign possessions or colonies, shall, from time to time, by proclamations to be by them respectively for that purpose issued, appoint the place or places within his majesty's dominions to which any offender convicted in any such possession or colony, and sentenced to transportation, shall be sent or transported: <sup>(1)</sup>

And whereas the then governor of this colony, Sir Benjamin D'Urban, K.C.B., by proclamation dated at Cape Town, the 18th day of March 1836, and in pursuance of the powers vested in him by his said late majesty's said order in council,

(<sup>1</sup>) *Vide Ordinance No. 10, 1844, infra.*

Proclamation  
May 4, 1842.

Transporta-  
tion of  
Convicts.

did appoint, that any offender convicted in the colony of the Cape of Good Hope, and sentenced to transportation, shall be transported to the colony of New South Wales :

Proclamation  
May 4, 1842.

Transporta-  
tion of  
Convicts.

And whereas the governor of the said colony of New South Wales has notified to me, that, by an order of her present majesty in council, bearing date the 22nd day of May 1840, the transportation of offenders to the said colony of New South Wales is no longer lawful.

Now, therefore, under authority of, and in pursuance of the powers vested in me by his said late majesty's order in council as aforesaid, I do hereby revoke and recall the said proclamation of Sir Benjamin D'Urban, and appoint that any offender convicted in the colony of the Cape of Good Hope, and being under sentence or order of transportation, shall be transported to the colony of Van Diemen's Land, in lieu and instead of to the colony of New South Wales, which was appointed by the Proclamation of the 18th March 1836, herein before referred to.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 4th day of May 1842.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

No. 6, 1842.—Signed, Geo. Napier.

*Ordinance, for applying a sum not exceeding £155,199 7 0, for the service of the year 1843. (1)*

WHEREAS the expenditure required for the service of the government of this colony for the year 1843, has been estimated at the sum of one hundred and fifty-five thousand one hundred and ninety-nine pounds, and seven shillings;—

Ordinance  
No. 6, 1842

Estimates  
1843

Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that a sum, not exceeding one hundred and fifty-five thousand one hundred and ninety-nine pounds, and seven shillings, be charged upon the revenue of the said colony, for the service of the year 1843, and applied in the manner following, that is to say :—

*For the ordinary expenditure*, a sum not exceeding seventy-six thousand nine hundred and seven pounds, fifteen shillings, and two pence, in the manner set forth in the two schedules hereunto annexed, marked No. I, A. and B. respectively.

(1) Sanctioned by the Queen,—*vide* Govt. Notice 8th May 1844.

Ordinance  
No. 6, 1842.Estimates  
1843

*For the fixed contingent expenditure*, a sum not exceeding thirty-one thousand one hundred and thirty-five pounds, five shillings, and four pence, in the manner set forth in the two schedules hereunto annexed, marked No. 2, C. and D. respectively.

*For the unfixed contingent expenditure*, a sum not exceeding twenty-two thousand three hundred and seventy seven pounds, sixteen shillings, and three pence, in the manner set forth in the two schedules hereunto annexed, marked No. 3, E. and F. respectively.

*For the local expenditure in the western division of the colony*, a sum not exceeding four thousand nine hundred and forty-six pounds, and fifteen shillings, in the manner set forth in the schedule hereunto annexed, marked No. 4.—And

*For the supplementary expenditure*, a sum not exceeding nineteen thousand eight hundred and thirty-one pounds, fifteen shillings, and three pence, in the manner set forth in the two schedules hereunto annexed, marked Nos. 5 and 6 respectively.

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SCHEDULE No. 1.—(A.)

Ordinary Expenditure.—Western Districts.

For the Governor and Private Secretary,	-	£5300	0	0
Colonial Office,	-	3120	0	0
Council Office,	-	527	0	0
Treasury,	-	1650	0	0
Registry of Deeds,	-	880	0	0
Audit Office,	-	1260	0	0
Stamp Office,	-	245	0	0
Surveyor-General and Civil Engineer's Office,	-	1655	0	0
Customs' Department, throughout the colony,	-	4115	12	6
Port Office, Table Bay,	-	1092	10	0
Tithes and Transfer Department,	-	702	0	0
Printing Office,	-	385	0	0
Post Offices,	-	921	15	0
Somerset Hospital,	-	663	0	0
Pauper Asylum,	.	155	0	0
Vaccine Institution,	.	50	3	9
Supreme Court,	.	6510	0	0
Master's office,	.	1970	0	0
Attorney-general's office,	.	1390	0	0
Sheriff's office,	.	750	0	0
Police office and town gaol,	.	1401	10	0
Civil establishment, Cape Division,	.	2101	10	0
Stellenbosch ditto,	.	1130	0	0
Worcester ditto,	.	1318	0	0
Clanwilliam ditto,	.	635	0	0
Swellendam ditto,	.	1210	0	0
George ditto,	.	935	0	0
Beaufort ditto,	.	715	0	0
Gaols in the country,	.	2413	10	0
Church establishment,	.	5471	0	5
Free schools throughout the colony, (fixed allowance)	.	3460	0	0
Pensions, civil, ditto	c	9001	4	2



Pensions on church establishment, throughout the colony,	208	0	0	Ordinance No. 6, 1842.  Estimates 1843
Ditto, military and Hottentot captains, ditto	866	12	10	
Colonial agency,	200	0	0	
Total, £64,408 8 8				

## SCHEDULE No. 2.—(C.)

*Fixed Contingencies.—Western Districts.*

For the governor, stationery,	£ 25	0	0
Colonial office, petty expenses,	41	13	9
Stationery and bookbinding,	200		
Newspapers,	34	4	
Despatch bags, &c.	8		
	283	17	9
Council office, stationery and bookbinding,	10	0	0
Treasury, stationery and bookbinding,	50	0	0
Deeds' Registry, ditto, ditto,	160	0	0
Audit office, ditto, ditto,	40	0	0
Stamp office, stationery and paper for stamps,	150	0	0
Surveyor general's office, stationery,	£30		
Travelling expenses,	250		
	280	0	0
For the civil engineer's office, stationery,	25		
Allowance for government gardens,	200		
Travelling expenses,	25		
Removal and shipment of stores,	220		
	470	0	0
Customs, compensation to sub-collector at Port Elizabeth,	100		
Petty expenses,	3		
Stationery, Bookbinding, &c.	90		
	193	0	0
Port Office, petty expenses and stationery,	20	0	0
Tax and tithes' office, stationery,	20	0	0
Printing office, petty expenses and stationery,	124	0	0
Post office, stationery and bookbinding,	50		
Supply and repairs of bags, &c.	100		
For the conveyance of Mails,	3944	9	0
Ferrying the mails across the Gauritz (12l.) Sunday's (15l.) Kafferkuils (9l.) Buffeljagts (8l.) and Vette Rivers (10l.)	54	0	0
Gratuities to masters of vessels,	50		
Candles, twine, coolie-hire, &c , and jackets and hats for Letter-carriers,	80	2	6
	4278	11	6
Somerset hospital, miscellaneous,	1829	0	0
Pauper asylum, miscellaneous,	838	8	1
Vaccine institution, stationery,	10	0	0
Lepor institution, miscellaneous,	1200	0	0
Medicines for country districts	100	0	0
Supreme court, stationery, and bookbinding,	70		
Petty expenses,	27		
	97	0	0
Master's office, stationery and bookbinding,	95	0	0
Attorney-general's office, do. do.	12	0	0
Sheriff's office, do. do.	40	0	0
Police department, provisions and clothing for convicts, in Cape Town, Cape Division, and Robben Island,	4000		
Stationery and bookbinding,	75		
	4075	0	0

Ordinance No. 6, 1842.	<i>Robben Island,—Stationery</i>	20	0	0
Estimates 1843	Superintendent general of education,—stationery and book-binding,	20	0	0
	House-rent to civil commissioner, Cape division,	100	0	0
	Transport and lodging of circuit judges,	1084	10	0
	Conveyance of district posts,	411	13	0
	Provisioning and clothing of convicts and prisoners in the districts,	2080	0	0
	Transport and maintenance of lepers in ditto,	80	0	0
	Stationery for country districts,	500	0	0
	Expenses of witnesses in criminal cases,	735	0	0
	Petty prison expenses,	105	0	0
	Horse-hire for serving summonses, for district courts,	572	0	0
	Transport of convicts, &c.	550	0	0
	Postages, Western Divisions,	56	0	0
	Inquests,	152	10	0
	Expenses of corporal punishments under sentence of district courts,	61	0	0
	Bookbinding in districts,	25	0	0

Total, £ 20,953 10 4

#### SCHEDULE No. 3.—(E.)

##### *Unfixed Contingencies.—Western Districts.*

For the governor, travelling expenses,	£300	0	0
Colonial Office,—Supply of the government gazette, and extra printing,	580		
Presents to border chiefs, paid through the colonial office,	50		
Sundry miscellaneous expenses,	8		
Fuel,	15		
	653	0	0
Council Office,—Fuel, &c.	5	0	0
Treasury,—Petty expenses, fuel, &c.	5	0	0
Deeds' Registry,—Ditto, ditto,	5	0	0
Audit Office,—Petty expenses,	15	0	0
Surveyor General's Office,—For re-surveys of lands,	800	0	0
Fuel and petty expenses,	9	10	0
	809	10	0
Civil Engineer's Department,—For ordinary repairs and alterations.			
Repairs to custom-house, searcher's office, warehouse, boat-shed, and tide-waiter's office,	145		
Ditto to town prison,	60		
Ditto to public offices,	100		
Ditto to colonial office,	50		
Ditto to government house,	150		
Ditto to stables,	50		
Ditto to gardener's cottage, walls and fences,	105		
Ditto to public buildings in caledon-square,	200		
Ditto to pauper asylum,	70		
Ditto to light-house, signal stations and port office,	100		
Ditto to Somerset hospital,	200		
Ditto to free school in keerom-street,	25		
Ditto to police station house,	30		
Ditto to Negro barracks, including allowance to superintendent,	100		
Ditto to buildings on Robben Island,	50		
Supply and repairs of furniture.			
For public offices,	150		
For government house,	30		
For town gaol,	70		

*For supplies.*

Implements,	-	-	100		
Lime bags,	-	-	10		
Coals for forge,	-	-	20		
Oil and cotton for light houses,	-	-	180		
Keep of horse and cart,	-	-	27	7	6

Ordinance  
No. 6, 1842  
Estimates  
1843

*Miscellaneous.*

Repairs to government and circuit wagons,	.	350			
Winding clock in public offices,	.	8			
		—	2380	7	6
Customs' Department,—Miscellaneous,	.		150	0	0
Port Office,—Repairs of boats, &c.	.		40	0	0
Printing Office,—Repairs to presses, &c.	.	21			
Type and other printing materials,	.	75			
		—	96	0	0
Somerset Hospital,—Clothing and furniture,	.		262	0	0
Pauper Asylum,—Clothing and furniture,	.		143	0	0
Vaccine Institution—Hire of house,	.		90	0	0
Supreme Court,—Fuel, light, and miscellaneous,	.		22	7	6
Master's Office,—Fuel and sundries,	.		5	0	0
Attorney-General's Office,—Fuel,	.		3	10	0
Sheriff's Office,—Summoning jurors and witnesses,	.	1350			
Expenses of criminal punishments,	.	300			
Fuel,	-	3			
		—	1653	0	0

*Police Department.—Town Prison, &c., and House of Correction.*

Bedding for convicts,	.	£200			
Ditto for prisoners,	.	100			
Straw for bedding,	.	20			
Fuel,	.	50			
Clothing for house of correction,	.	40			
Smith's work,	.	40			
Scales and weights for town prison,	.	6			
Petty requisites,	.	200			
Medicines,	.	20			
Utensils,	.	25			
Coir rope,	.	75			
Implements of punishment, handcuffs, &c.	.	12			
Passage, victualling, &c. of convicts forwarded by sea,	.	250			
Boat, coach, wagon, and horse-hire,	.	100			
Police surgeon, allowance for forage,	.	27	7	6	
Expenses for advertisements,	.	6			
Coals for the police court room,	.	3	15		
Hymn books and tracts for town prison,	.	3			
		—	1178	2	6

*Robben Island Establishment:*

Medicines,	.	25			
Materials, working implements, and gunpowder for quarries,	.	270			
Ditto for making shoes,	.	25			
Fuel for lime works,	.	150			
Bedding,	.	60			
Horses, forage for 10	.	220			
To replace one horse,	.	20			
Hire of transport and coolies,	.	100			
Allowance to the commandant for superintending the supplies of provisions,	.	54	15		
Ditto to ditto for forage,	.	27	7		
Ditto to a second overseer,	.	45			



Ordinance No. 6, 1942.	Allowance to two convict overseers,	6		
	Ditto to storekeeper, civil engineer's department, for			
Estimates 1843	sale of lime,	60		
	Repairs to Harness,	7	10	
	Ditto and expenses of island boat,	130		
				1200 12 6
	School Establishment,—travelling expenses to superin-			
	tendent general,	50		
	Transport of ditto.	100		
	Additional, for government free schools,	1230		
				1380 0 0
	<i>Miscellaneous.</i>			
	In aid of schools, &c. not on the govt. establishment,	1000		
	S. A. College, annual contribution,	200		
	Probable expenditure of colonial agent in England,			
	under authority of colonial department,	1000		
	Pensions to persons wounded or worn out in the service			
	of the colony, or their families, (western and eastern			
	divisions,)	200		
	Allowance to the chief Waterboer, for schools at Griqua			
	Town, and for conveyance of letters, &c. (paid in			
	Cape Town,)	155		
				2555 0 0
	<i>Cape Division.</i>			
	Allowance to civil commissioner for keep of a horse,	27		
	Horse and wagon-hire for department, on public duty,	12		
	Forage allowance to field-cornet of the Downs, &c.	15		
	Ditto to horses on the gaol establishment,	150		
	Shoeing and saddlery for ditto on ditto,	20		
	To replace one horse,	20		
	Repairs of boats at Simon's Town and Saldanha Bay,	40		
	Necessaries for gaols, prisoners, &c.	50		
	Horse-hire to field-cornets on public service,	30		
	Coals for court room,	1	10	
	Conveyance of record books from Simon's Town,	4	10	
	Medical expenses and medicine	30		
	Supply of bags for district posts,	3		
	House-rent to justice of peace, Simon's Town,	50		
	Allowance to two constables, (attached to the Magis-			
	trate of Cape Town) not provided with lodgings, at			
	9l. each,	18		
	Stabling, forage, &c., for horse in Cape Town,	27		
	Repairs of buildings, at Simon's Town,	30		
	Do. searcher's and port offices,	15		
	Do. free school,	20		
	Do. parsonage,	20		
	Do. to prison at Rondebosch,,	50		
	Do. to buildings at Saldanha Bay,	30		
	Bookpress for harbour-master, Simon's Town,	3		
				666 0 0
	<i>Stellenbosch.</i>			
	Articles for gaols, prisoners, and convicts,	90		
	Putting convicts in irons, &c.	60		
	Horse and wagon-hire for civil commissioner on public duty,	15		
	Expresses and horse-hire to field-cornets on ditto,	150		
	Interpretations, and medical attendance circuit court,	30		
	Medical attendance at the Paarl,	30		
	Repairs of public buildings,	100		
	Ditto of gaols,	50		

Temporary clerk to clerk of the peace during sessions of circuit courts, . . .	7 10	Ordinance No 6, 1842.
Attendance, &c. on sick in hospital, . . .	20	Estimates 1843
Fuel, . . .	3	
	<hr/>	
	555 10 0	

*Worcester.*

Necessaries for gaols, prisoners, and convicts, .	150	
Supply and repair of tools, putting on and taking off convicts' irons, -	40	
Interpretations, circuit court, -	20	
Repairs of buildings, -	75	
Repairs to gaol, .	45	
Horse-hire to field-cornets on public duty, .	150	
Expenses of justice of the peace and hire of lock-up house at Tulbagh, .	25	
Medical expenses, .	10	
	<hr/>	
	515 0 0	

*Clanwilliam.*

Necessaries for gaols, prisoners, and convicts, .	10	
Putting on and taking off convicts' irons, &c. .	7 10	
Horse-hire, &c. to clerk of the peace, .	10	
Interpretations circuit court, .	20	
Horse and wagon hire to civil commissioner on public duty, .	15	
Horse-hire to field-cornets on public duty -	35	
Horse-hire to district surgeon, -	25	
Repairs of public buildings, -	50	
Conveyance of record books to Worcester, for inspection of circuit judge, .	5	
	<hr/>	
	177 10 0	

*Swellendam.*

Necessaries for gaols, prisoners, and convicts, -	40	
Supply of tools and irons to convicts, &c. -	50	
Interpretations, circuit court, -	30	
Horse and wagon-hire for civil commissioner on public duty	50	
Horse-hire for field-cornets on public duty, -	75	
Repairs of buildings, -	96	
Ditto of leper institution, -	20	
Ditto to gaol, -	25	
Temporary clerk to clerk of the peace during sessions of circuit courts, -	7 10	
	<hr/>	
	393 10 0	

*George.*

Necessaries for gaol and convicts, -	30	
Repairs of public buildings and gaol, -	30	
Furniture for office and gaol, .	15	
Interpretations, circuit court, -	20	
Horse-hire to field-cornets on public duty, -	50	
Supply and repair of tools, and putting on and taking off convicts' irons, -	15	
Horse and wagon-hire to civil commissioner on public duty, .	20	
Hire of a building for lepers, .	12	
Ditto for customs at Mossel Bay, .	30	
Temporary clerk to clerk of peace during sessions of circuit court, -	7 10	
Horse-hire for district surgeon .	10	
	<hr/>	
	239 10 0	

Ordinance  
No. 6, 1842.Estimates  
1843*Beaufort.*Necessaries for gaols, prisoners, and convicts, supply and  
repair of tools, and putting on and taking off convicts'

irons,	45
Interpretations and medical attendance, circuit court,	20
Horse-hire to field-cornets on public duty,	90
Repairs of buildings,	15
Ditto of gaol,	75
Horse & Wagon-hire for civil commissioner on public duty,	10
Horse-hire for district surgeon on public duty,	20

275 0 0

For conveyance of gazettes, &c. to the field-cornets, and  
the maintenance of public watering and baiting  
places—

The Cape division,	100
Stellenbosch ditto,	51
Worcester ditto,	150
Swellendam ditto,	161
George ditto,	120

648 0 0

Total £16,355 10 0

## SCHEDULE No. 4.

*Local Expenditure.—Western Districts.**Roads and Ferries.—Cape Division.*

Repairs of toll roads,	£1500
Ditto streets, &c. Simon's Town,	85
Ditto toll-house, ditto,	5
Ditto upper and lower toll-houses near Cape Town	20
Ditto toll-house, Muizenburg,	5
Ditto of bridges over Liesbeek's River,	10
Ditto of water courses at Simon's Town,	30
Ditto of post-roads in the division,	100

1755 0 0

*Stellenbosch.*

Repairs of Franche Hoek road,	310 15
Ditto to bridges, &c. at Franche Hoek,	30

Repairs to Sir Lowry Cole's Pass,	} including also re- pairs of road from Eerste river to the Bot river, and re- pairs to cause-way on Palmiet river.	360
Ditto Houw Hoek,		360

Ditto to bridge over the Eerste River,	10
Ditto of post-roads in the division,	100

1170 15 0

*Worcester.*

Tools and labor for repair of Roodezand Kloof,	14
Repair of toll-houses, ditto,	20
Repairs of post-roads in the division,	150

184 0 0

*Clanwilliam.*

Repairs of ferry boat,	2 10
Repairs of post-roads in the division,	150

512 10 0



<i>Swellendam.</i>		Ordinance No. 6, 1842	
Repairs of main post road through the division,	245		
Ditto of branch roads,	100		
Ditto of road through Cogman's Kloof,	12		
Ditto from Caledon to Hemel en Aarde,	15		
Ditto to ferry boats and buildings,	25		
Ditto of road over the Platte Kloof,	30		
		427	0 0
<i>George.</i>			
Repairs to Cradock's Kloof,	650		
Ditto of main road through Attaqua's Kloof,	360		
Ditto of post-roads,	150		
Repairs to ferry boats,	22 10		
		1182	10 0
<i>Beaufort.</i>			
Repairs of post-roads through the division,		75	0 0
		Total	£4946 15 0

## SCHEDULE No. 5.

## Supplementary Expenditure.—Western Districts.

<i>Colonial Office.</i>			
Salary to a scavenger, for the public offices,	£30		
Ditto to gate-keeper, ditto,	10		
		40	0 0
<i>Council Office.</i>			
Increase of salary to messenger,		9	0 0
<i>Treasury.</i>			
Ditto ditto of chief clerk,		30	0 0
<i>Audit Office.</i>			
Ditto ditto to ditto,		20	0 0
<i>Deeds' Registry.</i>			
Ditto ditto to chief clerk,	£70		
Ditto Ditto to 1st ditto,	40		
Salaries to three extra clerks,	240		
Ditto to Messenger,	40		
		390	0 0
<i>Surveyor-General's Office.</i>			
Increase of salary to assistant surveyor general,	50		
Ditto to chief clerk,	20		
Ditto to 2d ditto,	15		
Ditto to draftsman,	40		
Ditto to messenger,	5		
Salary to 2nd assistant surveyor-general,	300		
Ditto to an additional clerk,	90		
		520	0 0
<i>Civil Engineer's Office.</i>			
Salary to assistant Civil Engineer,	250		
Ditto to temporary clerk,	78 5		
Increase of salary to book and storekeeper,	25		
Salary to light-house keepers,	90		
		443	5
<i>Customs' Department.</i>			
Salary to Temporary clerk, Cape Town,	90		
Ditto, Port Elizabeth,	90		

Ordinance No. 6, 1842.	Salary to two landing waiters, searchers, & tide surveyors,	400		
	Ditto to three tide waiters,	180		
Estimates 1843	Ditto to two boatmen and watchmen,	125 12 6		
			885 12 6	
	<i>Port Office.</i>			
	Salary to extra boatman,	50		
	Increase of ditto to boat's crew, signalman at the port office, and messenger,	51 10		
	For carriage of provisions to lions hill station,	18 5		
			119 15 0	
	<i>Tax and Transfer Dues' Office.</i>			
	Increase of salary to clerk in transfer branch,		15 0 0	
	<i>Printing Office.</i>			
	Ditto ditto to superintendent,	30		
	Ditto ditto to two pressmen, at 15 <i>l.</i> each,	30		
	Salary to an additional compositor,	60		
			120 0 0	
	<i>Post Office.</i>			
	Increase of salary to clerks, letter carriers, and country postmasters, western division,	131 15		
	Two agents, at Langekloof (15 <i>l.</i> ), and Zuur Anys (10 <i>l.</i> )	25		
			156 15 0	
	<i>Somerset Hospital.</i>			
	Increase of salary to steward,	22 10		
	Salary of lunatic matron,	13 10		
	Ditto of messenger,	18		
	Ditto of additional sick attendant,	22 10		
			76 10 0	
	<i>Vaccine Institution.</i>			
	Salary of messenger,		36 0 0	
	<i>Colonial Medical Committee.</i>			
	Salary to the president,		52 10 0	
	<i>Robben Island.</i>			
	Salary to a medical officer,		91 5 0	
	<i>Police Office.</i>			
	Increase of ditto to first clerk,	40		
	Salary to keeper of house of correction,	45		
	Ditto to matron of ditto,	12		
			97 0 0	
	Supplementary pensions,		983 16 8	
	<i>New Police Establishment.</i>			
	Salary to inspector,	200		
	Ditto to four sub-inspectors,	320		
	Ditto to four sergeants,	244 12		
	Ditto to thirty-seven constables,	1924		
	For forty-five sets of uniform,	400		
	Five Camlet Cloaks,	18 15		
	Lamp oil, cotton, &c.	43		
	Forage for police horses,	255		
	Horses to replace unserviceable ditto,	100		
	Farriery, repairs of saddles, &c.	75		
	Two stable attendants,	54		
	Glaziers' work, stable lanterns, &c.	16 18		
	Chains for securing refractory prisoners,	20		
	Allowance to superintendent for forage for two horses,	54 15		
			3726 0 0	

*Cape Division.*Ordinance  
No. 6, 1842.Estimates  
1843

Increase of salary to the clerk of the magistrate's court,		
Cape Town,	60	
Salary to an extra clerk to civil commissioner,	75	
Ditto to ditto in clerk of the peace office,	20	
Ditto resident surgeon, Simon's Town,	27	10
Ditto to superintendent of waterworks, ditto	39	10 10
Ditto to two superintendents of Cape flats,	120	
Increase of salary to police at Simon's Town,	18	

*Church Establishment.*

Salary to minister of the Dutch reformed church at		
Wynberg,	200	
Ditto to clerk at ditto,	30	
Ditto to two chaplains at ditto and Rondebosch,	200	
Ditto to two Clerks at ditto,	40	
Allowances to field-cornets, &c.	357	10
		1187 10 10

*Stellenbosch Division.*

Salary to district surgeon,	100	
Allowances to field-cornets, &c.	357	10
Ditto to an additional retired ditto,	5	
		462 10 0

*Worcester ditto.*

Salary to district surgeon,	90	
Allowances to field-cornets, &c.	220	
		310 0 0

*Clanwilliam ditto.*

Increase of salary to civil commissioner,	60	
Ditto to ditto of clerk to do.,	20	
Salary to an extra clerk,	80	
Do. to district postmaster,	3	
Ditto to district surgeon,	100	
Ditto to ferry-boatman,	7	10
Increase of salary to police,	17	
Allowances to field-cornets, &c.	288	15
		576 5 0

*Swellendam Division*

Salary to two ministers of Dutch reformed church at		
Riversdale and Bredasdorp,	400	
Ditto two clerks to ditto,	60	
Increase of salary to four constables, at £6 each,	24	
Salary to district surgeon at Caledon,	75	
Allowances to field-cornets, &c.	365	
		924 0 0

*George ditto.*

Increase of salary to civil commissioner,	60	
Ditto to clerk to do.	20	
Salary to an extra clerk,	80	
Salary, &c. to two overseers of crown forests,	224	
Allowances to field-cornets, &c. in employment,	188	15
		572 15 0

*Beaufort ditto.*

Increase of salary to civil commissioner,	60	
Ditto to clerk to do.	20	
Salary to an extra clerk,	80	
Ditto to district surgeon,	150	
Allowances to field-cornets, &c.	285	
		595 0 0



Ordinance  
No. 6, 1842*Wynberg.*

## TEMPORARY MAGISTRACIES.

Estimates  
1843

Hire of offices, and additional buildings for police,	89	10
Salary to clerk of the peace,	100	
Ditto to magistrate's clerk,	80	
Ditto to two constables, at £31 10 each,	63	
Increase of do. to police constable acting as gaoler,	8	
Conveyance of record books for inspection of supreme court,	1	10
		342 0 0

*Malmesbury.*

Hire of buildings,	81	
Salary to clerk of the peace,	100	
Ditto to magistrate's clerk,	80	
Ditto to gaoler,	36	
Ditto to three constables, at £31 10 each,	94	10
Conveyance of record books for inspection of supreme court,	15	
		406 10 0

*Paarl.*

Hire of buildings,	91	10
Salary to clerk of the peace,	100	
Ditto to magistrate's clerk,	80	
Ditto to gaoler,	36	
Ditto to three constables, at £31 10, each,	94	10
Allowance to gaoler and constables not provided with lodging,	27	
Conveyance of record books for inspection of circuit court,	10	
		439 0 0

*Caledon.*

Hire of buildings,	25	
Salary to clerk of the peace,	100	
Ditto to magistrate's clerk,	80	
Ditto to gaoler,	36	
Ditto to one constable, and additional salary to two others,	54	10
Allowance to constables not provided with lodgings,	18	
Conveyance of record books for inspection of circuit court,	6	
		319 10 0

Total £13,947 10 0

## SCHEDULE No. 1.—(B.)

## Ordinary Expenditure.—Eastern Districts.

Lieutenant-governor's establishment,	2000	0	0
Civil Establishment, Albany division,	1480	0	0
Uitenhage ditto,	1804	0	0
Somerset ditto,	785	0	0
Cradock ditto,	390	0	0
Graaff-Reinet ditto,	1080	0	0
Colesberg ditto,	410	0	0
Post office establishment,	161	0	0
Gaols and police ditto,	1557	0	0
Church ditto,	2832	6	6

Total £12,499 6 6

## SCHEDULE No. 2.—(D.)

*Fixed Contingencies.—Eastern Districts.*Ordinance  
No. 6, 1842.Estimates  
1843

House-rent for lieutenant-governor, . . .	300	0	0
Ditto for circuit judges, . . .	129	0	0
Ditto for two civil commissioners, . . .	200	0	0
Ditto for minister, Kat River, . . .	50	0	0
Ditto for chaplain, Port Elizabeth, . . .	40	0	0
Office rent for lieutenant-governor, . . .	70	0	0
Transport for ditto, . . .	200	0	0
Ditto for circuit judges, . . .	455	0	0
Ditto for civil commissioners, medical officers, and field-cornets, . . .	480	0	0
Maintenance and clothing of convicts and prisoners, . . .	4000	0	0
Conveyance of convicts and prisoners, . . .	580	0	0
Ditto of lepers and destitute persons, . . .	100	0	0
Petty prison requisites, . . .	200	0	0
Inquests, . . .	175	0	0
Expenses of witnesses in criminal cases in district courts, . . .	955	0	0
Horse-hire, in summoning ditto, . . .	505	0	0
Postage on official letters, . . .	80	0	0
Maintenance and clothing of lepers, &c. . .	820	0	0
Hire of buildings for ditto, . . .	105	0	0
Bookbinding, . . .	19	10	0
Stationery, . . .	600	0	0
Horse allowance to justice of the peace, Fort Beaufort, . . .	18	5	0
Medicines for gaols, . . .	100	0	0
Total	£10,181	15	0

## SCHEDULE No. 3.—(F.)

*Unfixed Contingencies.—Eastern Districts.**Albany Division.*

House-rent for chaplain at Bathurst, . . .	30		
Ditto for extra police, Graham's Town, and for constable at Bathurst, . . .	45		
Necessaries for gaols, prisoners, and convicts, supply and repair of convicts' tools, putting on and taking off irons of convicts, tools for repairs of roads, &c. . .	500		
Execution of criminal sentences, . . .	20		
Interpretations before circuit court, . . .	20		
Ditto magistrate's court, from the Dutch, . . .	60		
Medical attendance in court, . . .	30		
For the conveyance of extra official despatches, . . .	5		
Incidental petty expenses, . . .	50		
Presents for Kafirs and other native tribes, . . .	100		
Repairs to Residence of Lieut.-Governor, . . .	25		
Rations for destitute in the division, . . .	40		
Conveyance of mail from Graham's Town to Salem, . . .	10		
Hire of Lock-up House, at Salem, . . .	5		
Ditto ditto at Sidbury, . . .	5		
Second and third Instalments of Purchase Money of new Officers, . . .	1236	4	3
Temporary Clerk to Clerk of the Peace, during Sessions of Circuit Court, . . .	15		
Additional Furniture for the Lieut.-Governor's Residence, and repairs to old, . . .	200		
		2397	4 3
P 2			

Ordinance  
No. 6, 1842.

*Uitenhage.*

Estimates  
1843

House-rent for police and convicts at Port Elizabeth, .	81		
Rent of the port office, at ditto, .	12		
Ditto of custom house and warehouse at ditto, .	50		
Necessaries for gaols, &c. .	50		
Execution of criminal sentences, .	20		
Interpretations and medical attendance before circuit courts, .	30		
For the conveyance of extra official despatches, .	35		
Incidental petty expenses, .	100		
Officer of health at Port Elizabeth for boarding Vessels, .	17	10	
Allowance to two constables and two boatmen, at Port Elizabeth, not provided with Lodgings, at £9, .	36		
Temporary clerk to clerk of the peace during sessions of circuit court, .	7	10	
Tolls, Repairs of House, Gates, &c., .	15		
			454 0 0

*Somerset.*

Necessaries for gaols, &c. .	50		
Execution of criminal sentences, .	10		
Interpretations and medical attendance, circuit courts, .	25		
For the conveyance of extra official despatches, .	10		
Incidental petty expenses, .	15		
Interpretations, Magistrate's Court, .	25		
			135 0 0

*Cradock.*

Necessaries for gaols, &c. .	50		
Execution of criminal sentences, .	10		
Conveyance of extra official despatches, .	10		
Incidental petty expenses, .	50		
Interpretations and medical attendance, circuit courts, .	25		
House-rent to police, not provided with Lodgings, .	15		
			160 0 0

*Graaff-Reinet.*

House-rent for gaoler, .	18		
Necessaries for gaols, &c. .	100		
Execution of criminal sentences, .	25		
Interpretations and medical attendance, circuit courts, .	25		
For the conveyance of extra official despatches, .	30		
Incidental petty expenses, .	50		
Ditto ferries, canals, dams, and bridges .	55		
Allowance to two attendants on sick prisoners, .	2	8	
Temporary Clerk to Clerk of the Peace during Sessions of Circuit Court, .	7	10	
Native Interpretations, .	5		
			317 18 0

*Colesberg.*

Rent for public offices and dispensary, .	72		
Ditto of house for gaoler, .	16	4	
Necessaries for gaols, &c. .	65		
Execution of criminal sentences, .	25		
Conveyance of extra official despatches, .	10		
Incidental petty expenses, .	15		
Interpretations & medical attendance, circuit court, .	25		
Transport of Magistrate under Act 6 & 7 William 4th, .	50		
Maintenance of destitute persons, .	30		
			308 4 0

<i>Post Office</i> ,—Rent of offices at Graham's Town, Uitenhage, Port Elizabeth, and Colesberg, .	39	0	0
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*Sundry Expenses.*

				Ordinance No. 6, 1842.
Printing office forms and inserting advertisements, &c.,				Estimates 1843
in one of the local papers,	.	100		
Hire of a building for, and maintenance of, Lunatics,	.	200		
Repair of post-roads throughout the Divisions,	.	600		
Ditto to public buildings, ditto.	.	1000		
			1900 0 0	
For conveyance of gazettes, &c. to field-cornetries,				
in the following divisions—				
Uitenhage division,	-	90		
Somerset ditto,	-	50		
Cradock ditto,	-	50		
Graaff-Reinet ditto,	-	50		
Colesberg ditto,	-	71		
			311 0 0	
			Total £6,022 6 3	

## SCHEDULE No. 6.

*Supplementary Expenditure.—Eastern Districts.**Albany Division.*

Salary to two extra clerks in the civil commissioner and resident magistrate's offices,	-	160		
Ditto and forage allowance to a field-cornet and superintendent of convict labour and roads in and near Graham's Town,	-	77 7 6		
Ditto of two constables at Salem and Sidbury,	-	40		
Ditto of four additional do. in Graham's Town,	-	144		
Allowance to extra do. at the sittings of circuit,	-	10		
Salary to market-master at Fort Beaufort,	-	22 10		
Ditto to police at ditto,	-	72		
Ditto to district surgeon,	-	150		
Allowances to field-cornets, &c.	-	259 5		
			935 2 6	

*Uitenhage ditto.*

Salary to district surgeon, Uitenhage,	.	150		
Ditto to Fingo interpreter, ditto,	.	7 4		
Ditto to district surgeon, Port Elizabeth,	.	60		
Ditto to messenger, magistrate's court, ditto,	.	25		
Ditto to overseer of convicts, ditto,	.	68 8 0		
Ditto to two extra constables, ditto, at £30,	.	60		
Ditto to one extra boatman, ditto,	.	27		
Ditto to sexton ditto,	.	18 15		
Ditto to superintendent of leper institution, ditto,	.	40		
Allowances to field-cornets, &c.	.	176 5		
Ditto to an additional retired field-cornet,	-	5		
			637 12 9	

*Somerset ditto.*

Allowances to field-cornets, &c.	.		158 15	
<i>Cradock ditto.</i>				
Salary to district surgeon,	.	150		
Ditto to messenger,	.	25		
Ditto to two additional constables,	.	56 10		
Kafir Interpreter,	.	20		
Allowances to field-cornets, &c.	.	166 15		
			418 5 0	

*Graaff-Reinet ditto.*

Salary to district surgeon,	-	150		
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Ordinance No. 6, 1842.	Superintendence and repairs of town clock,	-	22	10	
	Superintendent of dams and canals,	-	45		
Estimates 1843	Allowances to field-cornets, &c.	-	186	5	
					403 15 0
	<i>Colesberg ditto.</i>				
	Salary to two additional constables,	-	56	10	
	Ditto to messenger,	-	25		
	Ditto to district surgeon,	-	150		
	Kafir Interpreter,	-	25		
	Allowances to field-cornets, &c.	-	231	5	
					487 15 0
	<i>Post Office.</i>				
	Salary to postmaster at Fort Beaufort,	.	12		
	Ditto to ditto at Colesberg,	.	25		
	Increase of salary to certain postmasters,	.	96		
	Salary to agent at Galgebosch,	.	10		
					143 0 0
	Salary to engineer, for superintending the formation and repairs of roads,	.			200 0 0
	<i>Kafir Police.</i>				
	Provisions, pay and clothing,	.	900		
	Rations to chiefs and followers,	-	100		
	Herdling of cattle sent from Kafirland,	-	30		
	Allowance to Kafirs for recovering stolen cattle,	-	93		
					1123 0 0

## AGENT GENERAL'S DEPARTMENT.

Salary to agent general (£ 350 already estimated on lieutenant-governor's establishment,)	150			
Allowance of house-rent to ditto,	50			
Salary to clerk,	100			
Ditto to interpreter,	100			
Ditto to assistant interpreter at Fort Beaufort,	50			
Ditto to diplomatic agent to Gaika tribe,	300			
Ditto ditto T'Slambie and Congo tribes,	300			
Ditto ditto Tambookies,	150			
Ditto ditto Crieli's Kafirs,	150			
Ditto to interpreter to agent to Gaika tribe,	27			
			1377	0 0
Total				£ 5,884 5 3

*God save the Queen!*

Given at the Cape of Good Hope, this 25th day of May, 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk of the Legislative Council.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

Proclamation  
June 30, 1842

Import  
Duties.

WHEREAS by an order of Her Majesty in Council, bearing date the 11th day of March 1842, it is directed that certain duties of customs heretofore imposed by certain orders in council, in the said first mentioned order in council recited, shall cease and be no longer payable, and that, in lieu thereof, there shall be levied and paid the several duties set forth in the table therein contained, which table is in the words and figures following,—That is to say :

*A Table of the Duties of Customs payable on Goods, Wares, and Merchandize imported into the Colony of the Cape of Good Hope.*<sup>(1)</sup>

INWARDS.		DUTY.		
		£	s.	d.
Coffee, viz.				
The produce of British possessions, the cwt.		-	0	5 0
The produce of foreign possessions, the cwt.		-	0	10 0
Flour, wheaten, not being the manufacture of the United Kingdom, the barrel of 196 lbs.	-	-	0	3 0
Gunpowder, the lb.	-	-	0	0 3
Pepper, the cwt.	-	-	0	4 0
Rice, the cwt.	-	-	0	1 6
Sugar, viz.				
Not refined, the produce of any British possession, the cwt.		0	2	3
Not refined, the produce of any other place, the cwt.	-	0	4	6
Refined or candy, not manufactured in the United Kingdom, the cwt.	-	0	6	0
Refined or candy, the manufacture of the United Kingdom, the cwt.	-	0	3	0
Spirits, viz.				
Brandy, the produce of France, not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength, the imperial gallon	-	0	0	4
All other spirits, not being the manufacture of the United Kingdom, or of any British possessions, of strength of proof of Syke's hydrometer, and so in proportion for any greater strength, the imperial gallon	-	0	1	0
Spirits of all sorts, being the manufacture of the United Kingdom, or of any British possessions, of strength of proof by Syke's hydrometer, and so in proportion for any greater strength, the imperial gallon	-	0	0	4
Tea, the lb.	-	0	0	4½
Tobacco, viz.				
Not manufactured, the cwt.	-	0	12	0
Manufactured, (not cigars,) the cwt.	-	1	0	0
Cigars, the 1000	-	0	5	0
Wood, unmanufactured, viz.				
Mahogany, rosewood, and teakwood, the cubic foot	-	0	0	3
All other wood, not the produce of the United Kingdom, the cubic foot	-	0	0	2
Wine, viz.				
In bottles, each not of greater content than six to the imperial gallon, the dozen bottles	-	0	4	0

<sup>(1)</sup> *Vide supra*,—order in council, 10th August 1840, p. 142.



Proclamation  
June 30, 1842

Import  
Duties.

In bottles, each not of greater content than twelve to the imperial gallon, the dozen bottles	-	0	2	0
Not in bottles, the imperial gallon	-	0	1	6
Goods, wares, and merchandize, not otherwise charged with duty, and not herein declared free of duty, being the growth, produce, or manufacture of the United Kingdom, or of any of the British possessions abroad, for every £ 100 of the value	-	5	0	0
Goods, wares, and merchandize, not otherwise charged with duty, and not herein declared to be free of duty, being the growth, produce, or manufacture of any foreign state, for every £ 100 of the value	-	12	0	0

**FREE.**

Bottles of common glass, imported full.

Bullion.

Casks, staves, hoops, and coopers' rivets.

Coin.

Diamonds.

Horses, mules, asses, sheep, cattle, and all other live stock, and live animals.

Seeds, bulbs, and plants.

Specimens illustrative of natural history.

And whereas it is further ordered by the said order in council, that the duties thereby imposed shall be levied, paid, received, and appropriated, in like manner as if the same had been imposed by a certain order in council of the 22d day of February 1832, and set forth therein.

And whereas it is further ordered, by the said order in council of the 11th day of March 1842, that the said order should come into operation from the time when the same should be made known by my proclamation in that behalf.

Now, I hereby, in pursuance thereof, proclaim and make known the same accordingly.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, this 30th Day of June 1842.

(Signed) George Napier.

By Order or His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Government Advertisement.*

Govt. Advt.  
July 8, 1842.

Discontinu-  
ance Tithes.

His Excellency the Governor has been pleased to direct intimation to be made of the discontinuance of all Tithes hitherto levied upon articles brought into Cape Town, from and after the date hereof.

Colonial Office, Cape of Good Hope, 8th July 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

Proclamation  
Aug. 11, 1842

Natal—ap-  
prehension of  
certain Boers

WHEREAS certain subjects of Her Majesty resident at Port Natal, and certain territories adjacent or appertaining thereto, did lately, contrary to their duty and allegiance, levy and make rebellion and war against Her Majesty, and did thereby expose themselves to the pains and penalties of high treason.

And whereas for divers reasons moving me thereto, I did authorise and empower lieutenant-colonel Cloete, the officer commanding the expedition recently dispatched from this colony for the suppression of the said rebellion, to offer a free pardon to such of Her Majesty's subjects as should return to their allegiance, with the exception of such person or persons as he should find, from information to be acquired on the spot, had forfeited, by their marked and conspicuous criminality, all claims to share in Her Majesty's clemency.

And whereas lieutenant-colonel Cloete, acting under such power and authority, did upon the 15th of July 1842, grant a general amnesty, or free pardon, to all persons who might have been engaged in resistance to Her Majesty's troops and authority, with the exception of Joachim Prinslo, Jacobus Johannes Burger, Michiel van Breda, and Servaas van Breda, whose cases were left for my special consideration.

And whereas, after maturely considering the nature and circumstances of the said resistance, as well as the cases of the said persons last-mentioned, I have come to the conclusion that the said persons shall, if possible, be made amenable to justice, and dealt with according to law;—I do hereby proclaim and offer a reward of one thousand pounds to any person or persons who shall apprehend and lodge in any of Her Majesty's prisons, or with the officer commanding Her Majesty's forces at Port Natal, the said Joachim Prinslo, Jacobus Johannes Burger, Michiel van Breda, and Servaas van Breda; or two hundred and fifty pounds for each of the said persons who shall be apprehended and lodged in manner aforesaid.<sup>(1)</sup>

*God save the Queen!*

Given under my hand and the public seal of the settlement, at Cape Town, this 11th day of August 1842.

(Signed) George Napier,

By Order of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.

(1) The persons here mentioned were, by subsequent proclamations, included in the general amnesty granted by Col. Coete. The appointment of a Commissioner to Natal, and the views of Government as to that place, will be found *infra*.

Proclamation  
Sept. 7, 1842

Native  
Tribes,  
The Boers,

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, &c. &c.*

WHEREAS it has been represented to me, that certain of Her Majesty's subjects who have, from time to time, emigrated from this colony, and are now remaining in certain territories beyond the boundary and adjacent to the Orange River, have evinced a disposition to encroach upon the possessions of certain of the native tribes, more particularly upon those belonging to Moshesh, the chief of the Basutus, and to Adam Kok, the chief of that section of the Griquas inhabiting the Philipolis district; and whereas Her Majesty's government has lately instructed me to take care that the emigrant farmers beyond the boundary shall be again distinctly informed of what is, and always has been, the settled policy of Her Majesty's government in reference to such encroachments, and that they be solemnly warned against engaging in any unjust proceedings of the kind;—Now, I do hereby proclaim and make known to all such emigrants as aforesaid, and more particularly to those residing in the vicinity of the chiefs above-mentioned, that Her Majesty will regard with the liveliest indignation any attempt upon the part of any of Her subjects, to molest, invade, or injure any of the native tribes, or to take, or maintain unlawful possession of any of the lands to those tribes belonging;—that by any such attempt, the offending parties will forfeit all claim to Her Majesty's protection and regard, and be held by Her to have placed themselves in an attitude of resistance to Her will and authority, and will inevitably expose themselves to all the penal consequences which may, by force of the act of parliament in that case made and provided, attend upon any criminal acts which may be by them committed, as well as to those other manifestations of Her Majesty's disposition to protect the native tribes from all invasion of their just rights, and to restrain all aggression upon the part of Her emigrant subjects, which it may hereafter become necessary to exhibit.

*God save the Queen.*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, this 7th Day of September 1842.

(Signed) Geo. Napier.

By Order of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.



*Proclamation by His Excellency Major General Sir  
George Thomas Napier, &c. &c.*

Proclamation  
Nov. 3, 1842

Annuling  
Mr. Justice  
Menzies' pro-  
ceedings.  
The Boers.

WHEREAS it has this day been reported to me, that on the 22d day of October last, and at or near Alleman's Drift, on the Orange River, a certain Instrument, in the following terms, was promulgated by the Hon. Mr. Justice Menzies, viz:—

“ I, William Menzies, Esq., first puisne judge of the colony of the Cape of Good Hope, do hereby declare, that in the name and on the behalf of Her Majesty Victoria, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, I have on this day taken possession, as belonging to the British Crown, and as part of the Dominions of Her said Majesty Queen Victoria, of all the territory in South Africa, lying to the eastward of the 22nd (twenty second) degree of east longitude, and to the southward of the 25th (twenty fifth) degree of south latitude, not being part of the dominions of Her Majesty the Queen of Portugal, or in the lawful possession or occupation of Portuguese subjects, or in the lawful possession or occupation of any native tribe, or of any native chief or ruler, more particularly, and especially, of all such portions of the, said territory as are now in the possession or occupation of any subjects of the British Crown, who have emigrated thereto from this colony, or from any other of the British dominions, to be under the dominion and sovereignty of Her said Majesty Queen Victoria, Her heirs and successors, wholly and for ever, or to such extent and for such time as it shall be the pleasure of Her said Majesty, Her heirs and successors, to retain and have possession of, and dominion and sovereignty over the same.

*God save the Queen !*

In token whereof I have this day planted the British ensign, and caused a beacon to be erected at Alleman's Drift.”

And whereas the said Instrument has been issued, and possession purported to be thereby taken of certain territories therein mentioned, without my authority, and without the authority of his honor the lieutenant governor of the eastern districts of this colony; and whereas the taking possession of the said territories, in the name and on behalf of Her Majesty, would be a proceeding at variance with the instructions of Her Majesty's government, and one which I do not feel myself warranted to authorise or adopt:—

Now, therefore, I do hereby proclaim and declare, that the said instrument so issued as aforesaid, and all acts attendant thereupon, so far as regards the taking possession in the name and on behalf of Her Majesty the Queen, of any of the terri-

Proclamation  
Nov. 3, 1842

Annuling  
Mr Justice  
Menzies' pro-  
ceedings.  
The Boers.

tories in the said instrument mentioned, are not, nor are any of them, to be taken or considered as being the acts of government, or as being adopted by me, or as altering or affecting the relations previously subsisting between Her Most Gracious Majesty and such of Her subjects as are now resident beyond the colonial boundary, or between Her Majesty and any of the native tribes or rulers inhabiting any of the said territories.

And whereas it is expedient to guard against any misapprehension of the true intent and meaning hereof:—I hereby solemnly warn all Her Majesty's subjects resident beyond the colonial boundary, that the allegiance which they owe to the British crown is not dependent upon their residence within Her Majesty's dominions, but is, according to the laws of the British empire, an obligation which it is not in their power to disclaim or violate with impunity, and that any treasonable or seditious attempts, or conspiracies against Her Majesty's royal authority, must ultimately be attended with the most disastrous consequences to all persons so offending.

And I further warn all such subjects as aforesaid, against all invasions of, or aggressions upon, the territories or persons of any native tribes or rulers.—And in order more fully to impress all parties concerned, with the determination of Her Majesty's government to discountenance to the uttermost, all such unjust invasions or aggressions, I have caused to be subjoined hereunto a copy of my proclamation of the 7th day of September last, <sup>(1)</sup> including certain additions made thereto on the recommendation of his honor the lieutenant governor.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, this 3d Day of November 1842.

(Signed) George Napier.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

*Government Notice.*

Ord. in Coun.  
Aug. 10, 1842

Fees in Ap-  
peals to Privy  
Council.

HER Majesty's secretary of state for the colonies has been pleased to direct the publication, for general information, of the following order of Her Majesty in council, establishing a reduced rate of fees in appeals heard by the judicial committee of the privy council: as also of an order made by that com-

(<sup>1</sup>) *Vide, supra p.*

mittee for transferring the taxation of costs to the clerk of appeals of the privy council office.

Colonial Office, Cape of Good Hope, 16th Nov. 1842.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,

Acting Secretary to Government.

Ord. in Coun.  
Aug. 10, 1842

Fees in Ap-  
peals to Privy  
Council.

*At the Council Chamber, Whitehall, August 10, 1842,*

By the Judicial Committee of the Privy Council.

THE lords of the judicial committee having taken into consideration the practice of referring the taxation of costs in appeals and other matters heard at their lordships' bar to the masters of Her Majesty's courts at Westminster, and being of opinion that such practice ought to be discontinued; their lordships are thereupon pleased to order, as it is hereby ordered, that it be referred to the clerk of appeals of the privy council office, acting as the registrar of this committee, to tax all bills of costs, under their lordships' orders, on appeals or upon the petition of the parties; and their lordships do further direct that all such taxation shall be regulated by the schedule of fees annexed to their lordships' representation to Her Majesty in council of this day's date; and their lordships do further direct that a separate account be kept of all the fees received by the said clerk of appeals on account of such taxation, such fees to be the same as have been usually charged by the masters or other persons to whom the taxation of such bills of costs has heretofore been referred.

C. C. Greville.

*At the Court at Buckingham Palace, the 11th Aug. 1842,*

Present,—The Queen's Most Excellent Majesty in Council.

WHEREAS there was this day read at the board a representation from the judicial committee of the privy council, dated the tenth August instant, and in the words following, viz.

“The lords of the judicial committee having taken into consideration the scale on which the costs of appeals, and other matters referred by your Majesty to this committee, are usually taxed by the masters of the court of Queen's bench, or other persons to whom their lordships have, from time to time, referred the same; their lordships agree humbly to represent to your Majesty that it is expedient that the scale of costs hitherto



Ord. in Conn.  
Aug. 10, 1842

Fees in  
Appeals to  
Privy Coun-  
cil.

allowed in the said proceedings before this committee, should be reduced; and their lordships recommend that, provisionally, and until further consideration, such costs in all appeals, or matters not being appeals, from the courts of ecclesiastical or admiralty jurisdiction, should be taxed and allowed by all such taxing officers as shall hereafter be directed to ascertain and report the same to the board, according to the schedule hereunto annexed; and that this rate of charges should be observed by solicitors conducting business before this committee."

Her Majesty, having taken this representation into consideration, was pleased, by and with the advice of Her privy council, to approve thereof, and of what is therein recommended, and to order, as it is hereby ordered, that the same be duly and punctually observed, complied with, and carried into execution. Whereof all persons whom it may concern are to take notice, and govern themselves accordingly.

C. C. Greville.

*The Schedule of Fees above referred to.*

	£	s.	d.
Retaining fee	0	13	4
Perusing official copy of proceedings	2	2	0
(This fee to be raised at the discretion of the clerk of appeals)			
Attendances at the council office, or elsewhere, on ordinary business, such as to enter an appeal or an appearance, to make a search, to lodge a petition or affidavit, or to retain counsel	0	10	0
Instructions for petition of appeal	0	10	0
Drawing petition or case, per folio	0	2	0
Drawing appendix, per folio	0	1	0
Copying, per folio	0	0	6
Attendance on order of reference			Nil.
Drawing small petitions for orders, &c.	0	10	0
Instructions for case	1	0	0
Attending consultation	1	0	0
Correcting proof sheets, per printed sheet	0	10	6
Correcting foreign or Indian proof sheets, per printed sheet	1	1	0
Attending or setting down for hearing			Nil.
Attending clerk of council for order			Nil.
Attending at council chamber on a petition	1	6	8
Attending council chamber all day on an appeal not called on	2	6	8
Attending a hearing	3	6	8
Attending a judgment	1	6	8
Sessions fee (for the legal year) equal to four term fees	3	3	0

*Government Notice.*

His Excellency the governor is pleased to direct the publication of the following act of parliament, passed on the 12th day of August last, for repealing so much of an act passed on the 24th day of August 1839, as relates to Portuguese slave vessels.

Colonial Office, Cape of Good Hope, 22nd November 1842.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

Govt. Notice.  
Nov. 22, 1842

Act. 5th and  
6th, V. R.

Portuguese  
Slave Vessels

*Anno Quinto & Sexto Victoriae Reginae.*

## CAP. CXIV.

An act to repeal so much of an act of the second and third years of Her present Majesty, for the suppression of the slave trade, as relates to *Portuguese* vessels.

12th August 1842.

WHEREAS in the third year of the reign of Her Majesty an act was passed, intituled *an act for the suppression of the slave trade*: And whereas it is expedient and proper that so much of the said act as relates to *Portuguese* vessels should be repealed: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that so much of the said act of the third year of the reign of Her Majesty as relates to *Portuguese* vessels shall be repealed, and so much accordingly is hereby repealed, save and except in respect to such *Portuguese* vessels as may have been or shall be seized or captured under the provisions of the said act before this present act shall have passed into a law, and the seisor or captor shall have had notice thereof.

2. And be it enacted, that due means of giving to all persons whom it may concern notice of the fact that this act has passed into a law shall be taken as speedily as possible by the lord high admiral, or the commissioners for executing the office of lord high admiral of *Great Britain*, and by Her Majesty's secretaries of state, or by persons under their authority.

3. And be it enacted, that the said act of the third year of the reign of Her Majesty shall, in no wise, continue in force and effect in respect to *Portuguese* vessels seized and detained on and after the first day of *December* in the year one thousand eight hundred and forty-two, at the *Cape of Good Hope* and at *Cape Horn*, and at all places lying eastward of *Cape Horn*, and westward of the *Cape of Good Hope*, or in respect to any

Act. 6th and  
6th V. R.

*Portuguese vessel seized and detained on and after the first day of February which shall be in the year one thousand eight hundred and forty-three, at any other place whatever.*<sup>(1)</sup>

### *Government Advertisement.*

Ord. in Coun.  
Aug. 27, 1842

Masters and  
Servants,

THE following order of Her Majesty in council passed on the 27th day of August last, for amending and consolidating the laws regulating the rights and duties of masters, servants, and apprentices, is published for general information.

Colonial Office, Cape of Good Hope, 14th December 1842.

By Command of His Excellency the Governor,

(Signed)

J. Moore Craig,

Acting Secretary to Government.

*At the Court at Windsor, the 27th of August 1842,*

Present,—The Queen's Most Excellent Majesty in Council.

WHEREAS on the first of March one thousand eight hundred and forty-one, an ordinance entitled an ordinance for amending and consolidating the laws regulating the relative rights and duties of masters, servants and apprentices, was enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council of that colony; which ordinance is in the following words, that is to say:—

Ordinance enacted by the governor of the Cape of Good Hope with the advice and consent of the legislative council thereof, “for amending and consolidating the laws regulating the relative rights and duties of masters, servants, and apprentices.”

### *Preamble.*

1. Whereas it is expedient to amend and consolidate the laws regulating the relative rights and duties of masters, servants, and apprentices, and providing for the protection of the labouring classes: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that after the taking effect of this ordinance, the various rules and regulations enacted and comprised in the chapters hereinafter contained, shall henceforth be observed and shall have the force and effect of law in this colony.

### *Definition of terms employed in this ordinance.*

2. And be it further enacted, that for the purposes and within

(1) If the act here alluded to can be obtained it will be given in the Appendix.



the meaning of this ordinance, unless it be otherwise specially provided, or there be something in the subject or in the context repugnant to such construction, 1st, the officer lawfully administering the government of this colony shall be deemed and taken to be the governor thereof. 2d, the word "servant" shall be construed and understood to comprise any person employed for hire, wages, or other remuneration, to perform any handicraft or other bodily labour in agriculture or manufactures, or in domestic service, or as a boatman, porter, or other occupations of a like nature. 3d, the word "apprentice" shall be construed and understood to comprise any person indentured or bound by any contract of apprenticeship made according to law, as apprentice to any other person. 4th, the word "master" shall be construed and understood to comprise any person whether male or female employing for hire, wages, or other remuneration any person falling within the before-mentioned definition of the word "servant," or to whom any person falling within the before-mentioned definition of the word "apprentice" shall have been indentured or bound by any contract of apprenticeship made according to law. 5th, the words "contract of service" and "contract of apprenticeship" shall respectively be construed and understood to comprise any agreement, whether oral or written, whether expressed or implied, which any person falling within the before-mentioned definitions of the word "servant" or "apprentice" shall respectively have entered into, or made according to law, with any person falling within the before-mentioned definition of the word "master," for the performance of any work or labor of any kind herein before-mentioned. 6th, the words "agricultural labor or occupation" shall, except in the 1st section of chapter 2d of these regulations, be construed and understood to comprise and comprehend not only all labour and occupation in agriculture properly so called, but also all labour and service employed in the rearing and tending of the live stock kept by any breeder or grazier of cattle or sheep. 7th, the words "magistrate" and "magistrates" shall be construed and understood to comprise the resident magistrates duly appointed for the different districts of this colony, and none other. 8th, the words "this colony" shall be construed and understood to comprise all islands and other territories whatsoever, which are dependent on the colony of the Cape of Good Hope, and subject to the government thereof. 9th, the word "month" shall be construed and understood to comprise the period of one calendar month. 10th, all words in this ordinance and in the various rules and regulations hereinafter enacted, importing the singular number or the masculine gender only, shall be construed and understood to include several persons as well as one person, and females as well as males. 11th, the words "father, parent, relative,

Ord. in Coun.  
Aug. 27, 1842

Masters and  
Servants.

Ord. in Conn  
Aug. 27, 1842

Masters and  
Servants.

husband, and wife," shall respectively be construed and understood to comprise reputed fathers, parents, relatives, husbands, or wives, as well as actual parents and relatives, and lawful husbands and wives. 12th, the words "officer and proper officer," when used with reference to the attestations or making of contracts of service or apprenticeship, or to the transfer and assignment of apprentices, shall be construed and understood to comprise every person who shall have been appointed by the governor to attest or make such contracts.

## CHAPTER I.

### *On the repeal of existing laws.*

#### *Existing laws repealed.*

1. All laws in force in this colony respecting contracts of service or apprenticeship, entered or to be entered into within the limits of this colony, between any master and servant, or apprentice, or respecting the rights and duties of masters and servants, or apprentices in such their relation to each other, or respecting the mode of enforcing such contracts and the penalties to be inflicted in case of the breach or non-performance thereof, or respecting the dissolution of such contracts, save and except in so far as is hereinafter otherwise provided; as also the ordinance No. 50, intituled "an ordinance for improving the condition of Hottentots and other free persons of colour at the Cape of Good Hope, and for consolidating and amending the laws affecting such persons:" and the ordinance No. 3, 1838, intituled "ordinance for fixing the termination of certain apprenticeships, and for providing for the destitute children of apprenticed labourers," except in so far as the latter enacts that no person shall by virtue of the act passed in the fourth year of the reign of his late majesty, or of the ordinance bearing date the 5th day of January, 1835, therein referred to, or of any sentence, adjudicature made, or indenture of apprenticeship entered into, in pursuance thereof, be liable to serve as an apprenticed labourer in this colony after the 1st day of December 1838, are hereby repealed.

#### *Laws and proclamations excepted from the repeal aforesaid.*

2. The before-mentioned repeal shall not annul or in anywise repeal any law now in force within this colony, touching and concerning the preference which servants have for wages in the property or estate of the masters, the power of servants or apprentices to bind their masters, by ordering goods in their name, or doing any other act of a like nature, and the liability of masters for wrong, damage, or injury committed by their servants or apprentices; nor shall the before-mentioned repeal annul or

in anywise effect the repeal of the proclamation of the 16th day of July, 1787,—9th day of May, 1803,—1st day of November, 1809,—23rd day of April, 1812,—9th day of July 1819,—and 23rd day of May, 1823,—or of any other laws, ordinances, or proclamations heretofore repealed, by any of the laws hereinbefore repealed,—all which shall continue and stand repealed, anything herein contained notwithstanding; and it shall not extend to, or affect, the repeal of the Ordinance No. 49, intituled “an ordinance for the admission into the colony, under “certain restrictions, of persons belonging to the tribes beyond “the frontier thereof, and for regulating the manner of their “employment as free labourers in the service of the colonists;” or of the Ordinance No. 3, 1836, intituled, “ordinance for “appointing and authorising certain persons to be commissioners, “and to act as guardians to emigrants being minors sent to this “colony from the United Kingdom, by a society known by the “style of The Children’s Friend Society,” which said two last-mentioned ordinances shall continue in and have full force and effect as law; and it shall not be construed or understood as in anywise impairing or derogating from the validity, force, and effect of an order made by his late Majesty king George the Fourth, with the advice of his privy council, on the 15th Jan. 1829, nor of an order made by Her Majesty, with the advice of her privy council, on the 30th July, 1838.

*In cases not provided for, the law of bilateral contracts in general to prevail.*

3. Notwithstanding the before-mentioned repeal, the supreme and circuit courts of this colony, in all causes which are now or shall be hereafter depending before the same, arising out of, or respecting the formation or dissolution of contracts of service or apprenticeship, touching or concerning any rights, duties, obligations, powers, liabilities, or other matters or things arising out of, or proceeding from any contracts of service or apprenticeship, or any of the mutual relations subsisting between masters and servants, or apprentices, shall respectively try, judge, and determine, the said causes, according to the law of this colony, respecting and applicable to bilateral contracts in general, except when other provision touching and concerning any such matter and thing as aforesaid shall have been made in this ordinance.

*The repeal aforesaid not to affect existing legal contracts.*

4. The before-mentioned repeal shall not annul or affect any contracts of service or apprenticeship entered into previously to the time when this ordinance shall take effect, and which under and by virtue of, and according to any laws in force within this colony on the day previously to the taking effect of this ordinance were then subsisting legal and valid contracts.



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*Existing contracts may, however, be annulled, on account of fraud, &c.*

5. Nevertheless, any such last-mentioned contract of service or apprenticeship to be performed within this colony, shall be liable to be set aside by any magistrate having jurisdiction over the parties, or any competent court, upon reasonable proof being made to the satisfaction of such magistrate or court that either of the parties to such contract was induced to enter into the same by any fraud, misrepresentation, or concealment.

## CHAPTER II.

*On the formation, duration, renewal, and conditions of contracts of service.*

*All contracts of service must be made in the colony, except contracts made in writing in Europe respecting labor other than agricultural.*

1. No contract of service shall be in force or effect within this colony unless the same shall have been made within the limits and upon the land of this colony—save and except such contracts as shall have been made in writing in any place in Europe according to any law in force within such place with any servant born in Europe, and which shall not be contracts made for the performance within this colony of any service or labour in agriculture, or in or about the manufactures of any colonial produce; and every such last-mentioned contract shall have force and effect within this colony for the term therein stipulated, provided such term shall not exceed the period of three years from the day on which the servant shall have landed in this colony, in which case such contract shall expire at the end of such period of three years.

*Contracts of service, in the absence of special agreement to endure for one month, except the servant be non-resident, or shall work by the piece.*

2. Every contract of service, whether oral or written, the term of endurance of which shall not have been expressly specified and limited by such contract, shall, in the absence of sufficient proof to the contrary, be deemed and taken to be for the term of one month from the commencement thereof, save and except contracts for service in any trade or handicraft whereby it shall not have been stipulated that the servant shall during the term thereof reside in the house or on the premises of the master, which shall be deemed and taken to endure only until the night of Saturday of the week, on any day of which it shall have been stipulated that the service shall commence,—and contracts for executing any particular piece of work specified in the contract, which shall expire so soon as the work is finished,

and when the work is not finished within a reasonable time, may be put an end to by the master after the lapse of a period of time reasonably sufficient for finishing such work.

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*No oral contract to be binding for more than twelve months in any case, or for more than three months in the case of a late slave or apprentice.*

3. No oral contract of service shall be valid or binding for any longer term than one year from the period stipulated for the commencement of the service in any case; and no such contract shall previously to the 1st day of January 1849 be valid or binding for a longer term than three months from the period so stipulated as aforesaid, in any case where the servant shall be a person who at any time previous to the 1st day of December 1838 was in the state of a slave, or in the state of an *apprenticed laborer*, under the provisions of the statute made in the 3d and 4th years of King William the Fourth, intituled "An act for the abolition of slavery throughout the British colonies; for promoting the industry of the manumitted slaves; and for compensating the persons hitherto entitled to the services of such slaves." Provided always, that no such contract shall be valid and binding in any case, unless the service thereby stipulated for be entered upon within one month from the date of the contract.

*No written contract to be binding for more than twelve months, except signed before a magistrate.*

4. No written contract shall be valid or binding for a longer period than one year from the date thereof, except the same be signed by the name, or, in case of illiterate persons, with the mark of the contracting parties, in the presence of a magistrate or other proper officer, nor unless such magistrate or officer shall subscribe such written contract, in attestation of the fact, that it was entered into, by the parties, voluntarily and with a clear understanding of its meaning and effect.

*No contract made before a magistrate to be binding for more than three years, in any case, or for more than twelve months in the case of a late slave or apprentice.*

5. No such contract so entered into before a magistrate or other proper officer shall be valid or binding for a longer period than three years from the date thereof, in any case; and no such contract, so entered into as aforesaid, shall, previously to the 1st day of January, 1849, be valid or binding for a longer period than one year, in any case, where the servant shall be a person who, at any time previous to the 1st day of December, 1838, was in the state of a slave, or in the state of an *apprenticed labourer*, under the provisions of the aforesaid statute, made in the 3d and 4th years of King William the Fourth.

6. All contracts of service entered into before a magistrate or other proper officer, shall be drawn up as nearly as possible in the following terms.

Be it remembered, that on this \_\_\_\_\_ day of \_\_\_\_\_  
in the year of our Lord \_\_\_\_\_ A. B. of \_\_\_\_\_  
and C. D. of \_\_\_\_\_ appeared be-  
fore me, E. F. (resident magistrate or officer specially appointed  
by the Governor, to attest contracts of service for the district,  
as the case may be, with his usual description,) and in my  
presence signed their names (or made their marks, as the case  
may be,) to the following contract of service.

The said A. B. agrees to hire the services of the said C. D. and the said C. D. agrees to render to the said A. B. his services at all fair and reasonable times, and in the capacity of \_\_\_\_\_ for \_\_\_\_\_ commencing on the \_\_\_\_\_ day instant, and terminating on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_. And it is further agreed, that the said A. B. shall pay to the said C. D. as such servant as aforesaid, wages after the rate of \_\_\_\_\_ by the (day, week, month, or year, as the case may be,) and that such wages shall be paid on the \_\_\_\_\_ day of each week (or month, as the case may be.)

[Here add any special agreement compatible with the law,  
and not adverted to in this form.]

(Signed)      A. B.  
                    C. D.

The preceding agreement was signed by the above named parties in my presence on the day and year above written, voluntarily, the same being, as far as I am able to judge, understood by them respectively.

(Signed) E. F.

Resident magistrate, or officer specially appointed by the governor, to attest contracts of service for the district.

*In the absence of special agreement to the contrary, no contract of service to expire until a month's notice be given.*

7. No contract of service for a month, or any longer period, shall be deemed and taken to have expired, until, at least, one month's notice shall have been given by either of the parties to the other party, unless where it has been expressly stipulated that no such notice shall be necessary: Provided always, that nothing in this section contained shall be construed so as to require that the party giving such month's notice shall determine the contract of service only at the end of some successive month thereof, or at any particular day or time whatever; and provided



also, that nothing in this section contained shall be construed so as to enable any party, or any contract of service, to determine the same before the expiration of the term of service originally agreed upon.

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*How such notice may be waived.*

8. When any such notice as is hereinbefore mentioned shall have been given by either of the parties to the other, and the master shall suffer the servant to remain, or the servant shall remain, in his service, after the day on which the notice was given that the contract of service should expire, such notice shall be deemed and taken to have been withdrawn and passed from, and the contract of service shall continue to endure as long and in like manner as if no such notice had been given, unless it shall have been otherwise expressly and specially agreed between the parties.

*Servants hired to reside on premises to be supplied with food and lodging.*

9. In all contracts, whether oral or written, by which it is stipulated that the servant shall reside on the premises of his master, and wherein it shall not be expressly provided that the master is not to supply food and lodging, the master shall be deemed and taken to have engaged to provide such servant, and such of his family, (if any,) as shall have been included in the contract in manner herein after mentioned in section 13 of this chapter, with lodging and sufficient food of good and wholesome quality during the continuance of the contract.

*Wages agreed for in money, not to be paid in kind.*

10. No servant's wages, if contracted for in money, may be paid in kind, or if contracted for in kind, may be paid in money, or in any other than the stipulated kind, except by the express consent of the servant.

*When rate of wages uncertain, magistrate to fix by custom.*

11. In case of any complaint for non-payment of wages due and payable by virtue of any contract of service being brought before any magistrate or other competent court by any servant, and when the rate of wages at which such contract was made, shall not be proved to the satisfaction of such magistrate or court, such magistrate or court is hereby required to fix the rate of wages at that usually paid in the district or place in which the service for which the wages are claimed was performed, —reference being had to the skill and ability of the servant,—and to give decree accordingly.

*Provision in case of servant's sickness.*

12. When any servant shall, in consequence of any sickness or accident which shall not have been occasioned by his own fault, be rendered incapable of performing his master's service,

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he shall, in absence of any special provision in contract, be entitled to receive his full wages, and every other benefit, privilege, or advantage, whether for himself or his family, stipulated for in the contract of service, during the period of such incapacity, unless the stipulated term of service shall sooner expire, or unless the period of such incapacity shall extend to a period longer than two months, in which latter case the master shall be entitled, if he shall so think fit, at the expiration of such two months, or at any time afterwards, during which such incapacity shall uninterruptedly continue, to treat and consider the contract of service as determined and rescinded to all intents and purposes whatsoever;—he, the said master, however, being bound, before being so entitled to consider the said contract as determined, to make good all stipulations therein mentioned and agreed upon, up to and for the day on which he shall declare his intention to treat and consider the said contract as rescinded: provided always, that if the said master shall not think fit, at or after the expiration of such two months as aforesaid, to treat the contract of service as determined and rescinded, but shall permit the servant to remain in his service, such servant shall not be entitled to claim any portion of the wages, or any benefit or advantage stipulated for in the contract of service, (save and except such food and lodging for himself and family as by the contract of service the master has engaged, or shall be deemed and taken to have engaged, to provide him with,) for any period subsequent to such two months during which such incapacity as aforesaid shall continue: and provided, always, that no servant hired by any contract expressly to perform service in any trade or handicraft shall be entitled to receive the wages, or any other benefit or advantage stipulated in the contract of service for any part of the time during which he shall have been rendered incapable of performing his master's work by any such sickness or accident as aforesaid, save and except such food and lodging for himself or family, as by the contract of service his master has engaged to provide him with, such food and lodging to be provided during such incapacity as aforesaid, unless the contract of service shall sooner expire, or unless such incapacity shall extend to a period longer than two months, in which latter case the master shall be entitled, if he shall so think fit, under the same powers and conditions in every respect as in this section before set forth, to treat and consider such lastmentioned contract of service as absolutely, and to all intents and purposes, determined and rescinded.

*Form of contract for service of wives and of children under 16.—  
Penalty for detaining such children after they have attained the  
said age.*

13. All contracts of service stipulating for the services of the wife of any servant, together with those of her husband, shall be

made or executed by her in like manner as the same shall be made and executed by her said husband: And it shall be lawful for the father,—or in the event of his death or absence, then for the mother, of any child under the age of 16 years, to contract for the service of such child together with his own, in like manner as such person may contract for his own services; and when such contract shall be in writing, the name and age of every such child shall be clearly set forth and specified in the contract; provided always, that nothing therein contained shall give to the master of any such parent any claim on the services of any such child beyond the period for which the parent shall be engaged, nor beyond the period when such child shall attain the age of 16; nor to the services of any other child of the contracting parent, whether under colour of such last-mentioned child having been fed or clothed by the master, or having been born while the parent of such child was in the said master's service, or under any other pretence whatsoever; and any person who shall be duly convicted by any magistrate or other competent court of detaining the child of any person in his service, or in any manner of withholding or causing to be withheld any such child from his parents, contrary to the provisions of this ordinance, shall forfeit and pay at the rate of twenty shillings for each month that such child shall have been thus unlawfully detained or withheld, and every such sum so forfeited shall, when the child has parents, be paid to them, and when the child's parents are both dead, or cannot be found, to the magistrate by whom the conviction was made, or for the district in which the conviction took place, to be by him applied for the benefit of such child and accounted for to government.

And every such child shall, on such conviction, be forthwith removed by order of the court making the same, from the custody of the person so convicted, and restored to his parents, when the same can be found, and otherwise shall be dealt with in manner hereafter provided as to the destitute children.

*Husband dying, contract of wife and child to expire in a month after his death.*

14. On the death of any person being at the time, together with his wife and any child, under contract as aforesaid, the contract shall become null and void in respect to such wife and children at the expiration of one month after the death of such person.

*Servant's wife and family not entitled to support, unless it be so stipulated for.*

15. It shall not be lawful for any person entering into any contract or service, by which it is stipulated that the servant shall himself reside on the premises of the master, to keep his wife and children on the premises of his master, unless when the



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master shall have also stipulated in such contract that this shall and may be done; provided that when the master shall have so stipulated, it shall not be lawful for him to claim the services of any such wife or child by reason merely of their residence on his premises.

### CHAPTER III.

#### *On the Apprenticeship of Children.*

##### *Contracts of apprenticeship to be in writing.*

1. No contract of apprenticeship shall be valid, unless at the time of its being entered into, it shall have been reduced into writing, and signed with the name, or, in case of illiterate persons, with the mark, of the master and parent, or guardian, as the case may be of the apprentice, and also for the apprentice, if of the full age of 16 years.

*Children under 16, to be apprenticed to agricultural labor only till that age.*

2. No contract of apprenticeship by which any child under 16 years, may be apprenticed as an agricultural labourer, shall be valid for any longer period than until such child shall have attained the full age of 16 years.

*Children not destitute above 10 and under 16 years, may be apprenticed till 21.*

3. Children not being in a state of destitution, above the age of 10, and under the age of 16 years, may be apprenticed by their fathers, or, in the case of fatherless children, by their mothers, or, in the case of orphans, having guardians, by their guardians, until they shall have attained their 21st year, or for any shorter period, and due provision for the maintenance, clothing, and instruction of every such apprentice, shall be made in the contract of apprenticeship. Provided always, that every contract of apprenticeship, whereby any child under the age of 10 years, not being in a state of destitution, shall be apprenticed, or attempted so to be, shall be null and void to all intents and purposes whatsoever.

*Persons of 16 years and upwards, may be apprenticed for 5 years.*

4. Any person of the full age of 16 years, or upwards, may, by his own consent, be apprenticed for any term not exceeding 5 years, to any trade, in the practice of which any peculiar art or skill is required, but not otherwise; provided always, that in the case of such persons being females, they may with such consent be apprenticed to domestic service for any such period as last aforesaid.

*Sections 2 and 4 not to apply to persons comprehended in ordinance No. 3, 1836.*

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5. The provisions in sections 2 and 4, of this chapter respectively contained, shall not extend to, or comprehend any of, the persons to whom the provisions of the before-mentioned ordinance No. 3, 1836, apply.

*Destitute children how to be treated in the first instance.*

6. When any parent or parents shall abandon or desert, or, by death, shall leave in a state of destitution, any child under the age of 16 years, the person with whom such child shall have been so left, or by whom such child shall be found in such state of destitution, shall with all convenient speed deliver the same to the nearest field-cornet, or directly to the magistrate or other proper officer, if the residence or office of such magistrate or officer shall be nearer to the place where such destitute child was so left or found, than is the residence of the nearest field-cornet, in order that means may be taken for providing for the maintenance and education of such child by apprenticeship in manner hereinafter mentioned; and if any person shall be duly convicted by any magistrate or other competent court of detaining in his possession or employment, any such destitute child as aforesaid, for a longer period than one month, every such person shall forfeit and pay at the rate of twenty shillings for each month that such child shall have been so detained; and every such sum so forfeited shall be paid, applied, and accounted for, in like manner as is provided in section 13 of chapter 2d of this ordinance.

*Destitute children how to be apprenticed.*

7. Every such child as aforesaid, who shall be delivered up to any field-cornet in manner aforesaid, shall with all convenient speed be, by such field cornet, removed to the residence or office of the nearest magistrate or other proper officer, and delivered over to such magistrate or other officer as aforesaid; and the said magistrate or officer to whom any such child shall be delivered over by any field-cornet or other person, shall, unless when it shall be made to appear to him that the child is actually not in a state of destitution, or is able to earn his own livelihood, in either of which events he shall decline to act in the case, cause such child to be lodged and provided for at the public cost, until he shall have sufficiently ascertained by inquiry, which he is hereby required to cause to be made, whether such child have any relative able and willing to maintain and take care of him, and if he shall discover any such relative or relatives, he shall apprentice such child, either to the sole relative, or to that one among the several relatives, of whom it shall appear most for the interest of such child to become the apprentice;

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and if no such relative be found, he shall apprentice him as soon as a suitable opportunity can be found, to some fit and proper person, until he shall have attained his eighteenth year, or, in the case of females, until their sixteenth year, or for any shorter period that may be deemed advisable; due regard being had to the provisions of the 2d section of this chapter, as to the time for which alone children may be apprenticed as agricultural labourers.

*Maintenance and wages to be stipulated for on behalf of such destitute children when apprenticed.*

8. Due provision for the maintenance, clothing, and instruction of every destitute child so apprenticed, shall be made in every such contract of apprenticeship, and suitable wages shall also be therein stipulated for, whenever such magistrate or other proper officer shall deem that the child's service in any part thereof will be worth wages, and in apprenticing every such child either to a relative or a stranger, it shall be the duty of such magistrate or officer to make the best terms he can for such child.

9. All such contracts for the apprenticeship of destitute children as aforesaid shall be drawn up as near as possible in the following terms:—

*Form of contract in apprenticing destitute children.*

District of

This contract of apprenticeship of A. B. of (*here insert the designation of A. B. as accurately as possible*) a destitute child, witnesseth, that C. D. (*here describe C. D. as the resident magistrate, or as the officer specially appointed by the governor to attest such contracts of apprenticeship for the district, as the case may be,*) pursuant to the ordinance No. , in that case made and provided, does by these presents apprentice the said A. B., aged      years or thereabouts, to E. F. of (*here insert the designation of E. F. as accurately as possible*) with him to dwell and serve as an apprentice, until, or for, as the case may be, (*here insert the age at which the apprenticeship is to determine or the term for which it is to endure*) during all which time the said apprentice shall faithfully and honestly serve and obey his master; and the said E. F. for himself, his heirs, and executors, does hereby covenant and agree with the said C. D., for and on behalf of the said A. B., that he, the said E. F., shall teach and instruct, or cause to be taught and instructed, the said A. B. in the (*here insert the particular trade or occupation,*) in the best manner that he can, during the said term, and shall also duly provide, or cause due provision to be made, for the education and religious instruction of the said A. B., to the best of his ability, and shall during the said term provide the said apprentice with suitable and sufficient food, washing, lodging, and all



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other things necessary and fit for such apprentice; and shall also pay as wages, to the said apprentice the sum of \_\_\_\_\_ (here insert the terms at which the wages stipulated are to be payable;) and also that the said E. F. shall not assign or transfer the said apprentice to any other person during the said term, without the consent in writing first had and obtained of the magistrate or other proper officer having power and authority to give such consent.

In witness whereof we the said C. D. and E. F. have set our hands at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_ 18

(here insert the signatures or marks of the parties)

in presence of

(here shall be inserted the signatures of at least two witnesses who have witnessed the execution of the contract.)

*Covenants in such contracts to endure to successors in office of the magistrate in whose favor they are made.*

10. In case the magistrate, or other proper officer, by whom the contract for the apprenticeship of any such destitute child as aforesaid, shall have been entered into, as aforesaid, shall, by death or otherwise, cease to act as such magistrate, or officer, then and in that case, all the provisions and covenants in such contract of apprenticeship contained shall endure in favor of the successor of such magistrate or officer, duly appointed; and such successor shall and may sue upon and take all other benefit and advantage whatsoever of such provisions and covenants, in like manner as if such successor had been himself the person by whom such contract as aforesaid was originally made.

*Such contracts to be tripartite.*

11. Every such last mentioned contract of apprenticeship shall be made and signed as aforesaid, in three parts, one of which parts shall be given to the master, and one to the apprentice, and the third part shall be filed and registered in the office of the magistrate, by whom it is attested, or where it shall have been attested by any other officer specially appointed as aforesaid, an entry of it shall be made in a book to be kept by him for that purpose, and the said third part shall be transmitted by him to the magistrate of the district, in which the master by whom such contract has been made usually resides, to be filed and registered in his office.

*Apprentice not to be assigned without consent of magistrate—or where apprentice shall be 16 years, or upwards, without his own consent.*

12. No master shall or may assign, or transfer, any apprentice, having been apprenticed as aforesaid, by any such magistrate or other proper officer as aforesaid, to any other person, without the consent in writing, first had and obtained, of the magistrate or

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other proper officer of the district in which such master resides ; and in case such apprentice shall be of the age of sixteen years, or upwards, without the consent of such apprentice himself.

#### CHAPTER IV.

*Respecting the effects of the death of the Master or Servant or Apprentices, of the Insolvency or change of Residence of the Master, and of the marriage and pregnancy of Female Servants and Apprentices.*

*Effect of death or insolvency of master upon the contract of service.*

1. In the event of the death or insolvency of the master, the contract of service shall, except as hereafter excepted, cease and determine after one month from the date of such death or insolvency, in case the stipulated term of service shall not sooner expire, and up to the period of such determination of such contract, such servant shall be entitled to claim his full wages and every other remuneration specified in such contract, and shall be bound, if required, to perform his service for the person legally representing the deceased or insolvent master.

*Effect of death, or insolvency of master upon the contract of apprenticeship.*

2. In the event of the death or insolvency of the master of any apprentice, or in the event of the apprentice being prevented, in the manner hereinafter in the 6th sec. of this chapter particularly mentioned, from performing his service, or fulfilling his engagement at the place where the same ought to be performed or fulfilled, such death, insolvency, or prevention, shall be a complete discharge of the contract of apprenticeship, and if any sum shall have been really and *bona fide* paid by, or on behalf of such apprentice as aforesaid, it shall be lawful for any magistrate having jurisdiction, or other competent court, upon proof of such payment, to order, in a summary manner, any sum which to the said magistrate or court shall seem reasonable, to be paid to or for the use of such apprentice as aforesaid, by any such master as aforesaid, or his legal representative ; regard being had, however, in estimating such sum to the amount of the sum originally paid by or on behalf of such apprentice, and to the time during which such apprentice continued in the service of such master as aforesaid ; provided always, that every such apprentice shall be entitled to his full wages, or other remuneration which may have become due previous to such dissolution of the contract of apprenticeship.

*Widow of deceased master may adopt the contract of service in the case of a domestic servant.*

3. The wife of the deceased master of every servant or apprentice, hired or contracted to perform service as a domestic, is entitled, if she shall so think fit, to claim the services of such servant or apprentice during the full period of the stipulated term of service, provided she shall consent to perform, and shall perform, all the stipulations of the contract in favour of the servant or apprentice, which the master was bound to perform.

*Effect of death or insolvency of master where the apprentice has been a destitute child.*

4. In the event of the death or insolvency of the master of any child, who, having been in a state of destitution, shall have been apprenticed by a magistrate or other proper officer in the manner hereinbefore set forth, it shall be the duty of such magistrate or other proper officer, in case such apprentice shall, at the time of the death or insolvency of his former master, be under the age of sixteen years, and unable to support himself, to retake the charge and care of such child; and if it shall be deemed expedient, to apprentice again the said child for any term within the limits prescribed by this ordinance for the duration of apprenticeships, to such fit and proper person as such magistrate or other proper officer, and such child, if of the age of sixteen years, or upwards, shall mutually approve of and agree upon;—provided that when such child has not attained the said age of sixteen years, his consent shall not, in any case, be necessary.

*On death of servant or apprentice, wages to be paid up to period of death.*

5. In the event of a servant or apprentice dying during the currency of the stipulated term of service, his heirs, executors, or other legal representatives, are entitled to claim from the master the full wages and other remuneration due to such servant or apprentice for the period which he had served previously to his death, and no more.

*Effect of change of residence of master upon the contract of service or apprenticeship.*

6. No servant or apprentice (save as hereafter provided as to persons apprenticed as destitute children,) hired or contracted to perform service at the residence of, or at any particular place of trade or business occupied by his master, is, in the event of his master's removing his residence, or place of trade or business, out of the town, or, (where such place is not in any town) from the place in which by the contract such servant or apprentice was bound to perform his service, to any greater distance than two miles from such town or place, where by the stipulations of the contract such servant or apprentice is not



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bound to reside in the house or on the premises of his master, or to any greater distance than 10 miles from such town or place where such servant or apprentice is bound to reside in the house or on the premises of his master,—bound to perform his service at the place, to which his master shall have removed his residence or place of trade or business, without the consent of such servant, or of the parents or guardian of such apprentice; but such consent shall in all cases be deemed and taken to have been given whenever it shall be proved that such servant or apprentice being one not bound to reside in the house or on the premises of the master has performed, or in the case of an apprentice been knowingly permitted and allowed by his parent or guardian to perform, at the new residence or place of trade or business of his master, any service to his master of any kind which he was bound by the contract to perform,—or, being one bound to reside in his master's house or premises, has gone to and remained, and in the case of an apprentice been permitted and allowed by his parent or guardian to go to and remain in such house or on such premises, for one week after his master's removal thereto.

*The master of an apprentice who shall have been a destitute child, may remove such apprentice with permission of magistrate.*

7. The master of any apprentice, who has been apprenticed to him in manner hereinbefore provided as a destitute child, is entitled without limitation or restraint to remove such apprentice to, and to exact the performance of the service stipulated in the contract, wherever such master may have removed his residence or place of trade or business within the district of the magistrate by whom the contract of apprenticeship was made or filed and registered in manner herein provided; but he is not entitled to remove such apprentice permanently out of the district of such magistrate, unless he shall first have obtained the consent of such magistrate, and every magistrate, by whom any such consent shall be given, shall endorse the same on the third part of the contract of apprenticeship registered and filed by him, and, on such removal taking place, forthwith transmit such third part to the magistrate of the district to which such apprentice shall be removed, to be by him duly registered and filed in manner hereinbefore provided.

*Certain servants and apprentices bound to make certain journeys, if required.*

8. No servant or apprentice hired or contracted to perform domestic service, may lawfully refuse to accompany his master, or any of his family by desire of his master, on any journey within this colony, or in the course of such journey to perform every such service as by reason of his contract of service or apprenticeship, he would be bound to perform in his master's

house or on his premises, and no servant or apprentice may lawfully refuse to go on any journey within this colony on which his master shall order him to go upon, or in charge of, or to drive, herd, tend, or to take care of any carriage, horse, or any kind of cattle, the property or in the lawful possession of, or under the lawful control of his master, which such servant or apprentice would by reason of his contract of service or apprenticeship be bound to ride, drive, herd, tend, take care of, or charge of, at his master's residence, or on his premises; provided always, that there shall be reasonable grounds for believing that such journey may and will be performed before the expiration of the stipulated term of the service of such servant or apprentice, and that such master shall be bound to provide such servant or apprentice with food and every other thing which may be necessary and proper to enable such servant or apprentice to perform such journey, and to return to the residence or premises of the master before the expiration of the term of service.

*No servant or apprentice bound to quit the colony against his will.*

9. No servant or apprentice shall be bound to accompany his master or to go out of this colony, without the consent of such servant, or of the parent or guardian of such apprentice, or where such apprentice is of the full age of 16 years, without also the consent of such apprentice.

*Where servant not bound to accompany master to new residence, contract dissolved by master's removal.*

10. When any servant not being bound or obliged to accompany his master, or go to any place to which the master shall remove his residence, or place of trade or business, or to which the master shall order such servant to go, shall decline or refuse so to do, the contract of service shall, from the date on which the servant shall be prevented from performing his stipulated service at the place where the same was to have been performed, stand dissolved; and such servant shall be entitled to claim from the master such wages or other remuneration, at the rate specified in the contract of service as shall have been earned up to the time of the refusal before mentioned, together with wages and remuneration after the rate aforesaid for the period of one month additional, or until the expiration of the contract of service, in case it shall expire within one month from the time of such refusal; Provided always, that when notice of his intention to remove as aforesaid, or to send such servant as aforesaid, shall have been given by such master, such additional wages and remuneration shall not in any case be due or payable for any period longer than one month from the date of such notice.

*Any special agreement touching change of residence to be good.*

11. Nothing herein contained shall annul or affect any special

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agreement or stipulation made in any contract of service or apprenticeship whereby the servant or apprentice shall be bound to accompany his master, or to go to any place to which the master shall remove his residence, or place of trade or business, or order such servant or apprentice to go to and there perform the service stipulated in such contract.

*Effect of marriage of female servant or apprentice, as to the right of husband.*

12. When any female servant or apprentice shall be lawfully married during the currency of her stipulated term of service, her husband may at any time subsequent to such marriage dissolve the contract of service or apprenticeship, and remove his wife from her master's service, if he shall think fit so to do, and shall be entitled to claim the wages and other remuneration which may have become due to her for services previously to such removal; but the husband of any such servant so removed by him, shall be liable to her master for all damage which her master may sustain by such removal. The husband of any such apprentice so removed from her master's service shall not be liable to her master for any damage sustained by him by such removal.

*Effect of marriage or pregnancy of female servant, or apprentice, as to the rights of master.*

13. The master of any female servant or apprentice, who, during the currency of her stipulated term of service, shall marry, or enter into any state which in this colony is or shall be reputed to be the married state, shall, where such servant or apprentice is by her contract of service or apprenticeship bound to reside or to perform domestic service in the house or on the premises of her master, be entitled at any time subsequent to such marriage, or reputed marriage, to dissolve such contract and dismiss such servant or apprentice: and when such servant or apprentice is not by such contract bound to reside or to perform domestic service in the house or on the premises of her master, he shall be entitled to dissolve such contract, and dismiss such servant or apprentice from his service whenever she shall, by reason of her pregnancy, or delivery of a child, become disabled from performing the service which by such contract she is bound to perform. But any such servant or apprentice so dismissed on account of her marriage, or entering into a state so reputed as aforesaid to be the married state, or of pregnancy, or delivery of child, shall be entitled to claim from her master the wages and every other remuneration which shall have become due to her for her services previously to the date of such dismissal, and the master, before being entitled to dismiss such servant or apprentice, shall be bound to pay and satisfy the same.



*Master may deduct wages for neglected work, but not too much, on pain of treble damages and costs.*

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14. It shall be lawful for any master to abate, deduct, and withhold a reasonable and proportional part of the wages or other remuneration of any of his servants or apprentices for such days or parts of days as such servant or apprentice shall have been absent from or shall have neglected his service or work without leave, or any other lawful and reasonable excuse for such absence or neglect: but on complaint preferred and proof made before any competent magistrate or court by any such servant or apprentice that his master has unjustifiably abated, deducted, or withheld any part of his wages or other remuneration, on the plea and pretence of absence or neglect of his service or work, such magistrate or court may adjudge such master to pay such servant or apprentice damages, not exceeding treble the amount of the wages or other remuneration which shall have been so unjustifiably abated, deducted, or withheld, together with costs, to be recovered in the same manner as is hereinafter prescribed for the recovery of wages in arrear.

#### CHAPTER V.

*Of the jurisdiction of the resident magistrates, and of the police courts of Cape Town and Simon's Town, in cases between masters and servants and apprentices.*

*Jurisdiction of resident magistrates in cases of contracts of service &c.*

1. The resident magistrates within this colony have jurisdiction in all cases arising within their respective districts between masters and their servants and apprentices, and with reference to their relative rights and duties, or to any matter or thing or offence as to which provision is made by this ordinance: provided always, that such magistrates shall have no jurisdiction in any such case wherein the amount of the wages or remuneration, or compensation, or damages, shall exceed the sum of £20, nor to enforce the performance of any contract of service or apprenticeship, the existence or subsistence of which is denied by either of the parties. in any case in which the stipulated or alleged term, or the unexpired period of the stipulated or alleged term of service shall exceed one year, nor to cancel or dissolve any such contract.

*Resident magistrates have jurisdiction over all persons within their respective districts.*

2. Every resident magistrate has jurisdiction in any such case as aforesaid, brought before him against any person being at the time within his district, whether the grounds of such case arose within the district or not, or whether the person against

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whom the case is brought has his usual residence or place of abode in that district or not, but the magistrate shall, whenever it shall appear to him that any such case can be more conveniently tried or determined by the resident magistrate of any other district, dismiss such case, and in the event of his doing so when the servant or apprentice is accused of desertion, and when he shall have probable cause shown to him by oath or affidavit of any credible person for believing this to be the fact, such magistrate may, if he think fit, issue a warrant for the conveyance under sure custody of such servant or apprentice to the town or place where the court of such other magistrate is held provided the master shall undertake to pay the expense of such conveyance.

*Definition and punishment of misconduct of servant or apprentice.*

3. On complaint preferred, and proof made, before any resident magistrate having jurisdiction over the parties, that any servant or apprentice has refused or neglected to perform his stipulated work, or that he has performed it negligently or improperly, or that, by negligence or other improper conduct, he has injured the property of his master entrusted to his care, or that he has behaved to his master with violence or insolence, or that he has been guilty of scandalous immorality, or of drunkenness, or other gross misconduct, the resident magistrate may, in his discretion, adjudge the servant or apprentice, to any one or more of the following penalties,—that is to say,—a pecuniary penalty for the benefit of the master, not exceeding one month's wages, or the commitment of the servant or apprentice to prison, with or without hard labor, for any time not exceeding fourteen days; or such resident magistrate may order the dissolution of the contract of service or apprenticeship, save and except as hereinafter is excepted.

*Definition and punishment of misconduct of master.*

4. On complaint preferred, and proof made, by a servant or apprentice, before any resident magistrate having jurisdiction over the parties, that his master has not paid the stipulated wages, or delivered the articles, if any, stipulated for in the contract of service or apprenticeship, or that the articles delivered were not of the agreed amount and quality, or that by the negligence or other improper conduct of the master, the contract of service or apprenticeship has not been by him faithfully performed, or that the master has ill-used the servant or apprentice, the resident magistrate may make order for the payment of the wages in arrear, or for the delivery of the stipulated articles, or for compensation to be made to the servant or apprentice, for any injury sustained by such negligence or improper conduct of the master, or by his non-fulfilment of the contract; or by his ill-usage as aforesaid; and if such order be not complied

with according to the exigency and tenor thereof, the resident magistrate shall and may issue a warrant for the seizure and sale of the goods of the master, or so much thereof as may be requisite for making such payment or compensation; and it shall be lawful for the officer who shall execute such warrant, or for any other officer, subject to the order and control of such magistrate, to sell by way of auction, without taking out any licence for that purpose, all such goods as shall have been seized, and shall be sold in execution, and every such officer shall render the overplus, if any, of such sale, to the master, and, failing any sufficient distress, the resident magistrate shall and may make order for the commitment of the master to prison, for any time not exceeding one month, unless such compensation or payment be sooner made. The resident magistrate may also in any of the cases aforesaid, if he shall see fit, order the contract of service or of apprenticeship to be cancelled, either in addition to, or in substitution for, any such order as aforesaid: provided that the stipulated or alleged term, or the unexpired period of the stipulated or alleged term of service or apprenticeship, shall not exceed one year.

*Course to be pursued where period of service exceeds 12 months, and complaining party demands dissolution of contract.*

5. Where, on complaint preferred by any master against his servant or apprentice, or by any servant or apprentice against his master before any magistrate having jurisdiction over the parties, it shall be proved to the satisfaction of such magistrate that the party complained of has committed or been guilty of such gross misconduct as to make it proper that the contract of service or apprenticeship should be cancelled and dissolved, and where the unexpired period of the stipulated term of service shall be more than one year, such magistrate shall, in case the party complaining demands such cancellation and dissolution, but not otherwise, cease to have or exercise any further jurisdiction in the case, and shall leave the same to be disposed of by the supreme or circuit court as the party complaining may select. Provided that nothing herein contained shall be construed to prevent any such resident magistrate from inflicting in any such case any other of the penalties imposed by this ordinance, in case the cancellation and dissolution of the contract shall not be demanded as aforesaid, or to prevent such resident magistrate from ordering the contract of service or apprenticeship to be cancelled or dissolved in every case in which the respective parties to the same shall mutually consent and agree thereto.

*If servant poor, process to be gratuitous.—Penalty for vexatious complaints.*

6. Where it shall be made to appear to the satisfaction of any magistrate that any servant or apprentice preferring any such



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complaint as aforesaid is from poverty unable to pay the costs of any summons or process, or the execution thereof, then the said magistrate shall cause such summons or process to be issued and executed free of all charge and expense whatsoever, and if upon the investigation of such complaint such magistrate shall adjudge and find the same to have been vexatious, it shall be lawful for such magistrate, if he shall think fit, to commit the complainant to prison, with or without hard labor, for any time not exceeding fourteen days, or to forfeit to his master any part of his wages, not exceeding one month's wages, or to both such imprisonment and forfeiture.

*Attorney-General and the respective clerks of the peace, to act for servants, repondent, in cases of appeal to supreme or circuit courts.*

7. In any case between a master and his servant, or apprentice, in which the resident magistrate shall have given judgment in favor of such servant or apprentice, and such master shall appeal from such judgment, or apply to have the same reviewed, it shall be the duty of the attorney-general, in case such appeal or application shall be brought before the supreme court, and of the clerk of the peace for the district in which such judgment was made, in case such appeal or application shall be brought before the circuit court, (provided the said attorney-general or such clerk of the peace shall be called on so to do,) to appear for, and conduct the case of, such servant or apprentice, free of all charge and expense whatever; and the judge of the circuit court is hereby empowered, upon the motion of any such clerk of the peace, to assign counsel to act gratuitously for such servant or apprentice, whenever such judge shall be of opinion that it is fit and proper so to do.

*Nothing herein to affect police courts of Cape Town and Simon's Town.*

8. Nothing contained in any of the provisions or regulations of this ordinance shall extend or be construed to extend in any wise to impair, annul, or affect the jurisdiction to hear, determine, and dispose of, according to law, all complaints in petty cases of a criminal nature between masters and their servants or apprentices arising within the local limits of the respective districts, which under and by virtue of the 2d section of the ordinance No. 4, 1834, intituled "ordinance for erecting, constituting and establishing police courts, to be holden in Cape Town and Simon's Town respectively, and for defining the duties and jurisdiction of the judge and superintendent of police in Cape Town, and the justice of the peace of Simon's Town," was given to, and is now possessed by, the judge and superintendent of police of Cape Town, and the stipendiary justice of the peace of Simon's Town.

## CHAPTER VI.

*Respecting the character given, or to be given, by masters to their servants and apprentices.*

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*No master is bound to give a character of a servant.*

1. No master is bound to give a character to any servant or apprentice who is or has been in his service, or to assign any reason for refusing to give it.

*Consequences of knowingly giving a false character.*

2. Every master who shall knowingly have given any false character of any servant or apprentice is liable to make compensation for any loss or damages which any third party, who by reason of such character so given has been induced to take such servant or apprentice into his service, has sustained by the misconduct of such servant or apprentice in any respect, or with reference to any matter, to which such character so given was false.

*Penalties on forgery of characters and false representations.*

3. Every person who, for the purpose of giving a character to any servant or apprentice, or other person intending to offer himself to be hired as a servant, shall forge or counterfeit and utter any certificate of such servant's or apprentice's character, or shall falsely personate any other person, and as such, either personally or by writing, give any false, forged or counterfeit character, or certificate of character, of any such servant, apprentice or other person offering or intending to offer to hire himself as a servant, and every person who shall offer to hire as a servant, asserting or pretending that he has served in any service in which he has not actually served, or with a false, forged, or counterfeit certificate of character, or shall in any wise add to, or alter, by effacing or erasing or inserting any word or date in any certificate given to him by his present or any former master, or by any other person duly authorised by any such master to give the same, and shall use or attempt to use the same as an inducement to hire him, shall, on conviction thereof, incur and be liable to a fine not exceeding £50, nor less than £10, or to be imprisoned for any period not exceeding one year, nor less than one month, or to both such fine and imprisonment.

## CHAPTER VII.

*Regulations for the better protection of Servants and Apprentices.*

*Master of servants and apprentices to give notice of deaths and births.*

1. Every master having in his service any servant or apprentice shall forthwith give notice to the nearest field-cornet, or if in

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Cape Town or the district thereof, to the resident magistrate thereof of the death of any such servant or apprentice, and of the death of any of his children or relatives residing on the premises, setting forth their several names and ages, and shall in like manner give notice of any births that shall take place by or in the family of any such servant or apprentice on his premises, setting forth the sex of the child, the mother's name, the name of the child, if any; and every master who shall neglect to give such notice of any such death or birth as aforesaid, shall forfeit and pay the sum of ten shillings sterling for every death or birth neglected to be so reported.

*Field-cornet to make half-yearly return to civil commissioner of such deaths and births.*

2. Every field-cornet shall make a half-yearly return to the civil commissioner of the division to which he belongs, of the deaths and births within his field-cornetcy so reported to him in manner aforesaid.

#### CHAPTER VIII.

##### *Respecting the Combination of Masters and Servants, or Apprentices.*

*Definition and punishment of unlawful interference with servants or apprentices, in order to prevent them from entering into or completing contract of service or apprenticeship.*

1. Any person who shall by violence to the person or property, or by threats or intimidation, or by molesting or in any way obstructing another, force, or endeavour to force, any servant or apprentice to depart from his service or work, or to return his work to his master before the same shall be finished, or to prevent or endeavour to prevent any servant or other person, not being hired or employed, from hiring himself to, or accepting service or work from any person, or force, or induce, or endeavour to force or induce any such servant or apprentice, or other such person to belong to any club or association, or to contribute to any common fund, or shall use, or employ, violence to the property of another, or threats of intimidation, or shall molest or in any way obstruct another on account of his not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or to pay any fine or penalty or on account of his not having complied or of his refusing to comply with any rules, orders, resolutions and regulations made to obtain an advance or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, business, work, or labour, or the management thereof; or who by any such violence, threats, inti-



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midation, molestation or obstruction shall force, or endeavour to force any manufacturer, or person carrying on any trade, business, work or labour, or engaged in agriculture to make any alteration in his mode of regulating, managing, conducting or carrying on the same, or to increase or limit the number of his apprentices or servants, shall, on conviction thereof before any resident magistrate or other competent court, be imprisoned with or without hard labour for any period not exceeding three months.

*Definition and protection of lawful acts and associations.*

2. Provided always, that nothing herein contained shall extend to subject to punishment any persons who shall meet together for the sole purpose of consulting upon, and determining the rate of wages or prices, which the persons present at that meeting, or any of them respectively shall require or demand for his or their service or work, or shall pay his or their servants or apprentices for their service or work, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the persons entering into such agreement or any of them shall require or demand for his or their service or work, or pay to his or their servants or apprentices for their service or work, or of fixing the number of hours of work which he or they will work, or will require his or their servants or apprentice to work in any manufacture, trade, business, labor, or agriculture, and that no such persons so meeting together, or entering into any such agreement as aforesaid, shall be liable to any penalty or prosecution for so doing.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape of Good Hope, this 1st day of March 1841.

By Command of His Excellency the Governor,

(Signed) John Bell,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk to the Legislative Council.

AND whereas by a certain order made by his late Majesty King George the Fourth, with the advice of his privy council on the fifteenth day of January, one thousand eight hundred and twenty-nine, it is amongst other things ordered, that this present order, and the ordinance thereby confirmed, shall not in anywise be altered, repealed, or amended by any law or ordinance to be

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thereafter made by the governor or the officer administering the government of the said colony, with the advice of the legislative council thereof, unless such ordinance shall have been first expressly ratified, confirmed, and allowed by His Majesty with the advice of his privy council; and that every such ordinance or pretended ordinance not so ratified, confirmed, and allowed shall be void and of no effect, and shall not be enforced or carried into execution by any of His Majesty's courts, judges, justices, officers, and others within the said colony.

And whereas, in consequence of the provision aforesaid of the said order in council of the fifteenth of January, one thousand eight hundred and twenty-nine, the said ordinance of the 1st of March, 1841, cannot take effect or have the force of law within the said colony until the same shall first have been confirmed, allowed, and finally enacted by Her Majesty in council. And whereas it is expedient that, subject to the conditions hereinafter mentioned, the said ordinance should be confirmed, allowed, and finally enacted. It is therefore ordered by the Queen's Most Excellent Majesty, by and with the advice of her privy council, that the said recited ordinance shall be and the same is hereby allowed, confirmed, and finally enacted. Provided nevertheless, that the civil ordinance and this present order shall be and continue in force until the 31st of December, which will be in the year of our Lord 1844, and no longer. Provided also that the limitation of time shall not defeat or render invalid, or be construed to defeat or render invalid, after the said 31st day of December, 1844, any contract of service which, according to the terms of the said ordinance, would have continued in force after the said 31st day of December, 1844, if the preceding limitation of time had not been made, but that notwithstanding such limitation of time the said ordinance shall continue in force and have the effect of law in respect of such contracts of service, after the said 31st day of December, 1844, if duly made and entered into before that time, according to, and in pursuance of, the terms of the said ordinance.

And the right hon. Lord Stanley, one of her Majesty's principal secretaries of state, is to give the necessary directions herein accordingly.

C. Greville.

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### *Government Notice.*

IT having come to His Excellency the Governor's knowledge, that in some offices the *Government Gazette* is not regularly filed;—notice is hereby given to all civil commissioners, heads of departments, and other officers to whom the *Gazette* is furnished at the public expense, that it is supplied to them for

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their official use, and is to be considered as public property under their charge; and, as such, to be handed over to their successors.

Colonial Office, Cape of Good Hope, 23rd Nov., 1842.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

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### *Government Advertisement.*

His Excellency the Governor is pleased to direct the publication, for the general information of Her Majesty's subjects, both within the colony and beyond the boundaries, of the following declaration, promulgated by his honor the Lieut. Governor at Colesberg, on the 2nd day of January instant, in which declaration the governor entirely concurs.

Govt. Advt.  
Jan. 12, 1843

Declaration  
of Lieut.  
Governor.

Colonial Office, Cape of Good Hope, 12th January 1843.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

A Proclamation has been recently issued by his excellency the governor of the Cape of Good Hope, (1) making known to certain of Her Majesty's subjects, who have from time to time emigrated from the colony, and are now remaining beyond the boundary, on, or adjacent to, the lands of the native tribes;—that Her Majesty will regard with the liveliest indignation any attempt, upon the part of her subjects, to molest, invade, or injure any of the native tribes, or to take or maintain unlawful possession of any of the lands belonging to those tribes; and the emigrant farmers have been informed in the aforesaid proclamation of his excellency the governor, that by any such attempt to molest or invade those tribes, the offending parties will forfeit all claim to Her Majesty's protection and regard, and be held by Her to have placed themselves in an attitude of resistance to her will and authority.

Notwithstanding this solemn warning against engaging in any unjust proceedings, and this manifestation of Her Majesty's determination to protect the native tribes from all invasion of their just rights, and to restrain all aggression on the part of her emigrant subjects,—information has been received by government, that a body of emigrant farmers, chiefly, if not wholly, composed of those who at Alleman's Drift, had, some time previous, renounced their allegiance to her majesty, had recently

(1) *Vide supra* p. 234 and 236.



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assembled near Philipolis, with the apparent intention of attacking and destroying the chief Adam Kok and his people—had actually seized upon and forcibly possessed themselves of a quantity of fire-arms, the property of Griqua subjects, and had in a most wanton, cruel, and insulting manner, devastated their fields of corn when ripe.

The clearest proof has been received that this their recent attack upon the Griqua nation was wholly unprovoked, that the chief Adam Kok had never entertained a thought of molesting or injuring the farmers; the attack, therefore, which was meditated upon that peaceable and harmless people could only have for its object the extermination of that tribe, and the possession by the invaders of that territory.

Such unjust and lawless proceedings on the part of Her Majesty's subjects, have imperatively called for the instant interference of the government, and the lieut.-governor has come himself to the northern border, with a large force of Her Majesty's troops, with a firm determination of putting a period to the lawless state of society existing beyond the boundary, and to the constant disorders created by those of the emigrants who have withdrawn themselves from their allegiance to their lawful government, by enforcing unconditional submission to the government and the laws from every British subject beyond the boundary.

The lieut.-governor wishes this his declaration to be made known to all,—that he will not be diverted from the above object by any consideration of time or of expense, or of the number of troops required to produce such results, namely—a happy return of every emigrant farmer to his allegiance, and to peace and to good order; having on these points the full assurance of support from Her Majesty's ministers.

In declaring his determination of enforcing unqualified submission to Her Majesty's government, the lieut.-governor at the same time wishes it to be understood by all, that measures of force and coercion will not be resorted to whilst a hope remains of the voluntary return of the misguided and disobedient to their duty.—That in case of such voluntary return, and of a full and satisfactory renunciation of their error, to which he hereby invites every misguided or erring emigrant, his honor declares himself ready to grant a full and free forgiveness of the past.

If, on the contrary, there should unfortunately be any so reckless, or so ill-advised, as to persist in opposing themselves to their lawful government,—towards such it will be his painful duty to act with the utmost severity of the law;—they will have acted the part of rebels; and, doubly warned, must expect to suffer accordingly.

In the offer of a free pardon above expressed, the Lieut.-Governor cannot, however, include those individuals who have

placed themselves at the head of the late movements, and have been principal instruments in misleading so many from their allegiance:—Of the crime of such persons, he will cause cognizance to be taken by the offended laws of their country, and to whose judgment they will have to submit.

Dated at Colesberg, this 2nd day of January, 1843.

(Signed)

J. Hare, Lt.-Governor,

In the absence of the Secretary to the Lt.-Governor,

(Signed)

T. Hare, Aide-de-Camp.

Govt. Advt.  
Jan. 12, 1843.

Declaration  
of Lieut.  
Governor.

### *Government Advertisement.*

It having been reported to his excellency the governor, that notwithstanding the government advertisement of the 29th May 1838, which is herewith re-published, some of the magistrates and other officers, in the country districts, do not take the steps therein prescribed for procuring the necessary printed office forms, but depend upon the post for their transmission, whereby not only is their supply often unavoidably delayed, but when forwarded the progress of the inland mails is much impeded, his excellency desires that the strictest attention be paid to the directions contained in the said advertisement, and that the postmaster-general refuse to receive, unless specially instructed to the contrary, any such forms, which, under the provisions of the said advertisement, he is not bound to forward.

Govt. Advt.  
Jan. 20, 1843.

Printed office  
forms.

Colonial Office, Cape of Good Hope, 20th Jan. 1843.

By His Excellency's Command,

(Signed)

J. Moore Craig,

Acting Secretary to Government.

### *Government Advertisement.*

In consequence of frequent delays in the transmission of the inland mails despatched from Cape Town, occasioned by the great and increasing weight of the mail bags, particularly those for Graham's Town:—his excellency the governor, in concurrence [with his honor the lieutenant governor, has been pleased to direct, that the following arrangement be established and strictly observed:

1. All blank official forms for the several government offices in the districts of Albany, Somerset, Cradock, Graaff-Reinet, and Colesberg, shall be printed at Graham's Town, and thence forwarded by the branch post.

2. All such forms for Uitenhage and Port Elizabeth shall be sent from Cape Town to that Port, and there disposed of according to order.

Govt. Advt.  
Jan. 20, 1843.  

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Printed office  
forms.

3. The Civil Commissioners of the Swellendam and George district will endeavour to make such arrangements as shall ensure their receiving the necessary supplies of forms by return wagons ; and they will be pleased to notify such arrangements to the superintendent of the government printing office, in order that there may be no delay in forwarding their supplies.

4. Stamps will continue to be forwarded by post ; but the commissioner and the several distributors will be held responsible that supplies are regular and frequent, so that they may be contained in small parcels.

5. Blank forms will be sent by post to Beaufort, Clanwilliam, Worcester, and Stellenbosch, by small and frequent supplies.

Colonial Office, Cape Town, 29th May 1838.

By His Excellency's Command,

(Signed) John Bell,  
Secretary to Government.

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*Government Notice.*

Govt. Notice.  
Mar. 6, 1842.

Produce of  
Portuguese  
Possessions.

His excellency the governor is pleased to direct the publication, for general information, of the following Order of Her Majesty in council, bearing date the 2d November 1842, authorising "Portuguese ships to import into any of the British possessions abroad, from the Portuguese dominions, goods, the produce of the Portuguese dominions, and to export goods from such possessions to be carried to any foreign country whatever."

Colonial Office, Cape of Good Hope, 6th March 1842.

By His Excellency's Command,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

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*At the Court at Windsor, the 2d day of November 1842.*

Present the Queen's most excellent Majesty in Council.

WHEREAS by an act passed in the session of parliament held in the 3rd and 4th years of the reign of His late Majesty King William the fourth, intituled, "an act to regulate the trade of the British possessions abroad," after reciting that by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, Goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever ; and that it is expedient that such permission should be subject to certain conditions, it is enacted that the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall



Govt. Notice.  
Mar. 6, 1842.

Produce of  
Portuguese  
Possessions.

grant the like privileges of trading with those possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favoured nation, unless His Majesty, by His order in council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid, shall not in all respects, be fulfilled by such foreign country;—and it is thereby provided that no foreign country shall be deemed to have fulfilled the before mentioned conditions, or to be entitled to the privileges aforesaid, unless and until His Majesty shall, by some order or orders, to be by him made, by the advice of his privy council, have declared that such foreign country hath so fulfilled the said conditions, and is entitled to the said privileges.

And whereas it hath been made to appear to the satisfaction of Her Majesty in council that the government of Portugal hath fulfilled the conditions hereinbefore mentioned.

Now, therefore, in pursuance, and exercise, of the powers in Her Majesty in council, by the said recited act of parliament in that behalf vested, Her Majesty, by and with the advice of Her privy council, doth declare, and it is hereby declared accordingly, that the government of Portugal hath fulfilled the conditions hereinbefore mentioned, and that Portuguese ships may import into any of the British possessions abroad, from the Portuguese dominions, goods the produce of the Portuguese dominions, and may export goods from such possessions, to be carried to any foreign country whatever;—provided always that nothing herein contained, shall be construed to prevent Portuguese ships from trading with any of the British possessions in Europe, to such extent, and in such manner as they lawfully may, under the law of navigation now in force.

And the right honorable the lords commissioners of Her Majesty's treasury, and the right honorable lord Stanley, one of Her Majesty's principal secretaries of state, are to give the necessary directions herein accordingly as to them may respectively appertain.

C. Greville.

Ordinance  
No. 1, 1843.

Qualification  
of Jurors.

No. 1, 1843.—Signed, George Napier.

*Ordinance for amending the Law relative to the Qualification of Jurors.*<sup>(1)</sup>

*Preamble,—Ordinance No. 85 repealed.*

WHEREAS the qualifications required for serving upon petit juries as the same are set forth in ordinance No. 85, entitled “an ordinance for altering and amending the ordinance No. 84,” have now become in some respects inapplicable, and it is expedient to abolish the same, and substitute one uniform qualification in their stead: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that the said ordinance No. 85, shall be, and the same is hereby declared to be repealed, except so far as the same repeals any former law or ordinance, or any part of any former law or ordinance.

*Qualification of Jurors.*

And be it enacted, that every man qualified and liable to serve as a juror, according to the provisions of any former law or ordinance, (save and except the said ordinance No 85, hereby repealed) and not being qualified to serve as a grand juror, and who shall be the occupier of any immoveable property, either as owner or renter of the yearly value of fifteen pounds, or who shall be the son of any such occupier as aforesaid, shall be qualified and liable to serve on any petit jury which shall be impanelled in the supreme court, or in any circuit court, which shall be held in or for the district in which such person shall reside.

*Joint occupants qualified in certain cases.*

And be it enacted, that where any immoveable property shall be jointly occupied by more persons than one as owners or renters, each of such joint occupiers shall be qualified and liable to serve on any such petit jury as in the last section mentioned, in respect of the immoveable property so jointly occupied, in case the yearly value of such property shall be of an amount which, when divided by the numbers of such joint occupiers, shall give a sum not less than fifteen pounds for each and every such joint occupier.

*God save the Queen!*

Given at the Cape of Good Hope, this 22d day of April, 1843.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) W. Tennant,  
Acting Clerk to the Legislative Council.

<sup>(1)</sup> Sanctioned by the Queen,—*vide* Government Notice 11th Jan. 1844, see Ordinance No. 84, vol. 2, p. 152.

No. 2, 1843.—Signed, Geo. Napier.

Ordinance  
No. 2, 1843.

*Ordinance for establishing a Toll at the Pass called Platte Kloof, in the Division of Swellendam, and for keeping in repair the road over the said Pass.*<sup>(1)</sup>

Toll at  
Plattekloof.

*Preamble.—Civil Commissioner to appoint person to levy a toll.*

WHEREAS the public road leading from the north side of the Langeberg, over the pass called Platte Kloof to the main post road, through the division of Swellendam, has been during the years 1841 and 1842 newly laid out, made, and brought into good order: and whereas it is expedient that the said road should be kept at all times in good repair, and that the cost to be incurred for such keeping in repair should not be a charge on the public revenue, but that a toll should be imposed for the purpose of defraying, indemnifying, and reimbursing all and any expenses which may be required for such repairs: Be it enacted, that from and after the passing of this ordinance, it shall and may be lawful for such person or persons as the civil commissioner for Swellendam, for the time being, after due authority obtained from his excellency the governor, shall from time to time authorise and appoint, to levy, demand, take, and receive at some appointed place in the said pass of Platte Kloof, by way of toll, from persons passing over and using the said road, the several sums of money mentioned and set forth in the schedule hereunto annexed, a copy of which schedule, in English and Dutch, shall be affixed on a board at such place where the said toll shall be demanded or collected.

*Fine for evading payment of such toll.*

And be it further enacted, that any person from whom any of the said tolls shall be duly demanded or due, who shall in any way attempt to prevent such due demand from being made, or who shall without paying the said toll, proceed with his wagon or other carriage, or his horses, oxen, or otherwise, through and beyond the place where the said toll shall be legally demandable, shall incur, and be liable to, a fine to be paid upon conviction, before the resident magistrate of the district, to the colonial treasury, of not less than twenty shillings, and not more than five pounds, and in default of payment thereof, shall be liable to be imprisoned for any period not exceeding one month.

And be it further enacted, that this ordinance shall continue in force until the first day of January, 1854.

*Schedule.*

For a loaded wagon,.....	£0	1	6
„ an empty do.,.....	0	1	0
„ a cart, do.,.....	0	1	0

(1) Sanctioned by the Queen,—vide Government Notice 11th Jan. 1844.



Ordinance  
No. 2, 1843.

Toll at  
Platteklouf.

For a saddle horse, .....	0	0	3
„ loose or led horses, oxen, or other			
cattle, each, .....	0	0	1½
„ sheep, goats, every 25 head, .....	0	0	1½

*God save the Queen!*

Given at the Cape of Good Hope, this 22d Day of April, 1843.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Secretary to Government.

By Order of the Legislative Council,

(Signed) W. Tennant,  
Acting Clerk to the Legislative Council.

No. 3, 1843.—Signed, George Napier.

*Ordinance for Repealing the Ordinance No. 4. of 1842, intituled an Ordinance to declare certain Immoveable Property belonging to the Colonial Government to be exempt from Municipal Taxation.*<sup>(1)</sup>

*Repeal of Ordinance No. 4, 1842.*

Ordinance  
No. 3, 1843.

Repealing  
Ord. No. 4.

WHEREAS a certain ordinance was made and passed in this colony, bearing date the 26th day of March, 1842, and numbered 4, 1842, and intituled “an ordinance to declare certain immoveable property belonging to the colonial government to be exempt from municipal taxation,”—and whereas it is expedient to repeal the said ordinance: Be it therefore enacted by the governor of the Cape of Good Hope, by and with the consent of the legislative council thereof, that the said ordinance No. 4, 1842, shall be repealed, and the same is hereby repealed accordingly.

*God save the Queen!*

Given at the Cape of Good Hope, this 4th day of May, 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,  
Acting Clerk of the Legislative Council.

<sup>(1)</sup> *Vide p. 205.* The Ordinance here repealed was disallowed by the Queen, *vide* Proclamation 20th July, 1843; and this Ordinance was sanctioned by the Queen, *vide* Government Notice, 11th Jan. 1844.

No. 4, 1843.—Signed, Geo. Napier.

Ordinance  
No. 4, 1843

*Ordinance for establishing the validity of certain Writings Testamentary, and Powers of Attorney, executed without being witnessed as by Law required, and for other purposes.*

Writings Tes-  
tamentary  
and Powers  
of Attorney,

*Preamble.—Wills and powers of attorney executed before 1st Jan. 1844 to be valid, although not properly witnessed.—Ordinary rules of evidence to be applied.*

WHEREAS there is reason to believe that many wills and other writings testamentary, and many authorizations, commonly called powers of attorney, as well for authorizing the giving of transfer, at the office of the registrar of deeds, of immoveable property, as for other purposes, have been heretofore made and executed in this colony, which, although made *bona fide*, and without fraud, have not been duly witnessed by the number of witnesses by law required, and are therefore liable to be set aside or declared void. And whereas it is expedient to make provision for preventing the various instruments aforesaid from being so set aside or declared void, on account merely of the defect aforesaid, and also to amend the law relating to the witnessing of such instruments as aforesaid : Be it therefore enacted by the governor of the Cape of Good Hope, by and with the advice and consent of the legislative council thereof, that no will or other testamentary writing whatever, and no power of attorney which shall, at any time before the first day of January, 1844, have been made and executed in this colony, shall be set aside, declared void, or in any manner questioned, in any court within this colony, by reason or on account merely that the same has not been duly witnessed by seven or any other number of competent witnesses,—any former law or usage requiring that any such instrument as aforesaid, in order to be valid, should be duly witnessed by seven or some other number of competent witnesses, to the contrary in anywise notwithstanding. But every such court, as aforesaid, shall be satisfied by the application of the ordinary rules of evidence, that every such instrument, as aforesaid, is the will or deed, as the case may be, of the party by whom it professes to be made, just as if no particular manner of witnessing the same had been prescribed by law.

*Repeal of former law.*

2. And be it enacted, that from and after the first day of January, 1844, every law and usage previously in force within this colony, by reason whereof any wills or other testamentary writings, or any powers of attorney have been deemed and taken to be inoperative or defective, unless the execution of the same were duly witnessed by seven, or some other number of wit-

Ordinance  
No. 4, 1843.

Writings Tes-  
tamentary  
and Powers  
of Attorney.

nesses, shall be, and the same is hereby declared to be repealed.<sup>(1)</sup>

*Wills and powers of attorney executed after 1st January 1844, to be witnessed by two witnesses.—When will made on more leaves than one, each leaf to be signed and witnessed.*

3. And be it enacted, that from and after the first day of January, 1844, no will or other testamentary writing, and no power of attorney, which previous to such date, required, in order to be valid, to be witnessed by seven or any other number of witnesses, shall be valid, unless it shall be executed in manner hereinafter mentioned, that is to say : it shall be signed at the foot or end thereof, if a will or other testamentary writing, by the testator, or by some other person in his presence, and by his direction, and, if a power of attorney, by the person executing the same, or by some other person in his presence, and by his direction ; and such signature shall be made or acknowledged by the testator or person executing the power of attorney, as the case may be, in the presence of two or more competent witnesses present at the same time, and such persons shall attest and subscribe the will or power of attorney, as the case may be, in the presence of the person executing the same. And where the instrument shall be written upon more leaves than one, the party executing the same, as also the witnesses, shall sign their names upon at least one side of every separate leaf upon which the instrument shall be written.

4. And be it enacted, that nothing in this Ordinance contained shall be deemed or taken to apply to or affect the law relative to wills or other testamentary writings, or powers of attorney, made or passed before any notary and witnesses.

*God save the Queen !*

Given at the Cape of Good Hope, this 4th day of May 1843.

By command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,

Acting Clerk to the Legislative Council.

<sup>(1)</sup> By the law of the colony previous to this ordinance, seven witnesses were required to all wills and other deeds not passed before a notary.



*Government Advertisement.*

THE governor has directed the following minute, which was read by his excellency in the legislative council this day, to be published for general information.

Colonial Office, Cape of Good Hope, 4th May 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

Govt. Advt.  
May 4, 1843.

Port Natal.

*Minute of his excellency the governor to the legislative council, respecting Port Natal.*

I cheerfully avail myself of this early opportunity after the very recent receipt of the decision of Her Majesty's government upon the subject of the Port Natal Territory, of communicating to you the substance of the instructions with which I have been honored, and of the measures I shall immediately adopt for giving them effect.—And it will, I am persuaded, be no less gratifying to your feelings than it has been to my own, to learn, that the right honourable the secretary of state for the colonies has communicated to me his “entire approval, looking to all the circumstances in which he was placed, of the course pursued by Lieut. Colonel Cloete; of his having restrained the Zoolas from falling upon the emigrant farmers, even previous to their submission; of his having extended a general amnesty, with four exceptions only, upon their submission; and of the favorable terms which he conceded to them provisionally, upon their faithful execution of the conditions to which they had agreed.”

His lordship trusts “that the leniency thus displayed on the part of Her Majesty, has not been thrown away upon these heretofore misguided men, and that Lieut. Colonel Cloete is not too sanguine in expressing his belief that the mass of the population are prepared, and gratefully disposed, to turn their former hatred of our government into steady fidelity.”

Of the various courses which might have been effectually pursued for maintaining the supremacy of the British Crown thus established, Her Majesty's government has not, under the professions of allegiance made by the farmers, deemed it either expedient or necessary, to coerce them by military force to abandon Natal and return to the colony; or to leave them to conduct their own affairs without affording them efficient protection. Her Majesty has, therefore, decided upon taking them under the protection of the British Crown;—of recognising their district;—of adopting it as a British colony; and of establishing such institutions, under British authority, as Her Majesty may deem necessary.

Govt. Advt.  
May 4, 1843.  
Port Natal.

Having thus announced to you Her Majesty's gracious intentions, I feel it my duty, at the same time, to inform you, that nothing would have induced Her Majesty's advisers to admit the independence of the emigrants, and to disclaim all responsibility respecting them ;—or to permit them to come under the protection or dominion of any foreign power.

Having, in my communications to Her Majesty's government, adverted to the several arguments which present themselves against the incorporation of Port Natal with the government of this colony, I am enabled to state that Her Majesty's government are disposed to admit the validity of those arguments, and to consider therefore the best means by which due provision may be made for establishing at Port Natal a colonial government distinct from, if not independent of, the government of the colony of the Cape of Good Hope. This, however, is a measure which could not be carried into complete effect without the promulgation of various instruments which Her Majesty's government have not yet had either the necessary time or information to complete, and the structure of which Her Majesty's government reserve for further consideration.

In order the better to carry into effect the objects of Her Majesty's government in reference to the territory in question I am directed to dispatch a commissioner to Port Natal, who, in the first place, will communicate formally to the emigrants, that Her Majesty has been graciously pleased to approve and confirm the act of general amnesty as granted by Lieut. Colonel Cloete, acting under my authority, with respect to the several persons concerned in the late revolt, and attack upon Her Majesty's troops.

2ndly.—That the inhabitants of Natal shall, henceforth, so long as they shall conduct themselves orderly and peaceably, be taken under the protection of Her Majesty's government.

3rdly.—That the commissioner shall make it his first duty, to enquire into, and report upon, the number of farmers and others holding land within the district of Natal, and of the extent of it, which they, or those from whom they derive their claim, shall respectively have *bona fide* occupied for a period of twelve months previous to the arrival of the commissioner, with a view to their receiving, hereafter, grants from the Crown for such an area thereof as Her Majesty may determine, subject to such fine or quitrent as Her Majesty may see fit to impose. In the mean time, they will be protected in the enjoyment of all such lands as they may be found by the commissioner to claim and hold. The commissioner's report upon their claims will be transmitted for the consideration of Her Majesty's government with the least possible delay, but no grants or sales of lands, in the Natal district, can be made to any person pending the signification of Her Majesty's pleasure on the subject. I cannot, however, conceal from you my sincere belief, that the reasonable expecta-

tions of the farmers will be realised by Her Majesty's gracious consideration of their claims, the Right Honorable the Secretary of State having communicated to me, that, notwithstanding all the faults of which the emigrants have been guilty, Her Majesty's government cannot be insensible to their good qualities, nor to the past hardships which they have undergone.

Her Majesty's advisers have determined, that all sums arising from land, whether by sale, rent, fine, or quitrent, shall be vested in Her Majesty; as shall all dues and customs collected on any part of the Natal coast, and that all such sums shall be applied exclusively to the maintenance of the civil government of the Natal district.—They have further decided, that the governor of that colony, under whatever denomination, shall be appointed by Her Majesty, and that no laws to be passed in the colony shall be valid without his consent.

Her majesty's government is also anxious to place the institutions of the colony upon such a footing, consistent with the maintenance of Her royal authority, as may be most acceptable to the bulk of Her subjects; and in order to ascertain their wants upon this point, the commissioner will be instructed to invite the unreserved expression of their opinions and wishes, in respect to the judicial, and other local, institutions under which they may desire to be placed, and he will be authorised to assure them, that such expressions, when submitted to Her Majesty, will receive Her Majesty's most favorable consideration, as, I am empowered to say,—that the contentment of the emigrants, rather than the abstract merits of these institutions, will guide the decision of Her Majesty's ministers.

It is, however, to be distinctly understood, that upon the question of legislation, Her Majesty reserves to herself the most entire freedom of action.

It is also of the utmost importance for the farmers to understand, that, with the exception of defraying the expenses for military protection by the mother country, the colony must, in every respect, support the charges for its local Government.

The Commissioner will, likewise, be instructed to make known in the most explicit terms, to the emigrants, that whatever may be the institutions ultimately sanctioned, the three following conditions are absolutely essential:—

1st. That there shall not be in the eye of the law, any distinction or disqualification whatever, founded on mere distinction of color, origin, language, or creed; but that the protection of the law, in letter and in substance, shall be extended impartially to all alike.

2d. That no aggression shall be sanctioned upon the natives residing beyond the limits of the colony, under any plea whatever, by any private person, or any body of men, unless acting under the immediate authority and orders of the government.

3d. That slavery, in any shape or under any modification, is



Govt. Advt.  
May 4, 1843.

absolutely unlawful, as in every other portion of Her Majesty's dominions.

Port Natal.

So essential, indeed, to the mind of Her Majesty's government, are these conditions, that I am instructed to take especial care for it to be distinctly understood, that they are indispensable preliminaries to the permission which it is proposed to give to the emigrants, to occupy the territory of Port Natal, and to enjoy therein a settled government under British protection.

In the course of a few days my arrangements will be completed for the appointment of the commissioner, when I shall be enabled to promulgate by proclamation the general view taken by Her Majesty's government, of the mode of dealing with the Natal district, and which I have now communicated to you. In the meantime, I cannot too plainly make known through you, that I am positively restricted, for the present, from the disposal of any land at Natal; and I am further instructed to discourage, to the utmost of my power, any speculative emigration which may be likely to arise on the first intimation that Natal is to be adopted and taken under British protection.

Government House, Cape Town, 4th May 1843.

(Signed) Geo. Napier, Governor.

Proclamation  
May 12, 1843.

*Proclamation by His Excellency Major-General Sir*

George Thomas Napier, K.C.B., &c. &c.

Port Natal.

WHEREAS her Majesty the Queen, in reference to the resistance to her royal authority, manifested, some time since, by certain of her, then, misguided subjects, resident in the district of Port Natal, hath been graciously pleased to bury past transactions in oblivion, and to declare herself desirous of being enabled to rely upon the assurances of loyalty and obedience which her said subjects have solemnly and deliberately given: And whereas, by a despatch which I have recently received from the right honorable the secretary of state for the colonies, I have had communicated to me the gracious intentions of her Majesty with regard to the district aforesaid, as well as the general views of her Majesty's government respecting the mode in which the affairs of the said district shall be settled so as most completely to secure the preservation of her Majesty's sovereign authority; the prosperity of the people for whose safety and guidance that authority has been asserted; and the peace, protection and salutary control of all classes of men settled at, and surrounding that, important portion of South Africa: And whereas, although in a minute lately laid by me before the legislative council of this colony,—of which minute a copy was, by my order, published in the *Government*

*Gazette* of the 5th May instant, for general information,—I have adverted to the principles upon which her Majesty's government purpose to proceed in carrying out the beneficent line of policy already indicated,—I deem it, nevertheless, to be expedient to promulgate, by way of proclamation, the substance of some portions of the said minute, together with certain further details therewith connected, in order, amongst other things, that Her Majesty's commissioner hereinafter named, who is upon the eve of his departure to Natal, may be duly accredited, and the general scope and object of his powers sufficiently understood ;—Now, therefore, I do hereby proclaim, declare, and make known, the several matters following, that is to say.—

Proclamation  
May 12, 1843.  

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Port Natal.

1. That, by virtue of the power and authority, in that behalf, in me vested, I have nominated, constituted, and appointed the hon'ble Henry Cloete, Esq., Ls., LL.D., to be, during pleasure, Her Majesty's commissioner for the district of Port Natal.

2. That Her Majesty's said commissioner is authorised to communicate formally, to the settlers in the said district, that Her Majesty has been graciously pleased to approve of and confirm the act of general amnesty of the 15th July, 1842, in manner and form as the same was originally granted by lieutenant-colonel Cloete, acting under my authority, with respect to the various persons concerned in the late revolt, and attack upon Her Majesty's troops.

3. That the district of Port Natal, according to such convenient limits as shall hereafter be fixed upon and defined, will be recognized and adopted by Her Majesty the Queen, as a British colony, and that the inhabitants thereof shall, so long as they conduct themselves in an orderly and peaceable manner, be taken under the protection of the British crown.

4. That Her Majesty's said commissioner is empowered and instructed to ascertain, in the fullest manner, the opinions and wishes of Her Majesty's subjects at Natal, relative to their judicial and other local institutions, in order that suitable arrangements in that behalf may afterwards be made, according to the benignant principles explained and set forth in my minute to the legislative council, and which need not be here repeated.

5. That while Her Majesty's said commissioner is not debarred by his instructions from receiving and recording any suggestions which may be offered relative to the species of legislative authority proper to be established in the colony, he will, at the same time, cause it to be distinctly understood, that upon this subject Her Majesty reserves to herself the most entire freedom of action.

6. That Her Majesty's said commissioner is instructed distinctly to declare, that the three next-mentioned conditions,—all of them so manifestly righteous and expedient as to secure, it is to be hoped, their cheerful recognition by the inhabitants of

Proclamation  
May 12, 1843.

Port Natal.

Natal,—are to be considered as absolutely indispensable to the permission which it is proposed to give the emigrants to occupy the territory in question, and to enjoy therein a settled government under British possession :

- 1st. That there shall not be, in the eye of the law, any distinction or disqualification whatever, founded on mere distinction of color, origin, language, or creed ; but that the protection of the law, in letter and in substance, shall be extended impartially to all alike.
- 2d. That no aggression shall be sanctioned upon the natives residing beyond the limits of the colony, under any plea whatever, by any private person, or any body of men, unless acting under the immediate authority and orders of the government.
- 3d. That slavery, in any shape, or under any modification, is absolutely unlawful, as in every other portion of Her Majesty's dominions.
7. That, pending the promulgation of such definitive arrangements as Her Majesty may be graciously pleased hereafter to sanction and establish, the existing institutions of the district of Natal will not be interfered with, so long as nothing is attempted, under colour thereof, contrary to the tenor of any of the provisions of this proclamation, or to the act of the 6th and 7th Wm. 4, cap. 57, regarding crimes and offences committed by any of Her Majesty's subjects within any territory adjacent to the colony of the Cape of Good Hope, and being to the southward of the 25th degree of south latitude, or to the loyalty and due obedience owing to the British crown.
8. That, with the exception of the expense of maintaining, within the district of Natal, a military force adequate to its protection, which expense will be borne by the mother country, that colony must, in every respect, support the charges of its local government.
9. That, in order the better to enable the colony to sustain the said charges, no extrinsic application will be made of any portion whatever of the revenue originating within the same, but all sums of money arising from land, and whether by sale, rent, fine, or quitrent, shall be vested in Her Majesty, as shall also all dues and customs which may at any time, after the legal establishment of the colony, be collected on any part of the Natal coast, and all sums of money shall be applied exclusively to the maintenance of the civil government of the district.
10. That the farmers and all others holding land within the district of Port Natal, shall, pending the further pleasure of Her Majesty, be protected in the enjoyment of all such lands as they shall be found by Her Majesty's commissioner to claim and hold.
11. That the farmers and all others holding land within the



said district, will be called upon by the said commissioner to make accurate returns showing the quantity of land which they, or those from whom they derive their claim, shall have *bona fide* occupied for a period of twelve months next before the arrival of the said commissioner in order that,—after such returns shall have been verified by the said commissioner,—grants from the crown may be made to the several parties, to such an extent and upon such terms, as Her Majesty,—taking into consideration the circumstances of the colony, the general welfare of its inhabitants, and the expediency of raising, in any just and equitable manner, such a land revenue as may make the charge of supporting the local government least burthensome to her subjects,—may approve of and impose.

Proclamation  
May 12, 1843.

Port Natal.

12. That, pending the signification of Her Majesty's pleasure upon the subject, no grants or sales of lands in the Natal district will be made to any person whomsoever; and that all persons are hereby distinctly warned of the absolute futility of any attempt to acquire a title or claim to any lands in the said district, by any species of dealing or transaction with any person or persons whatever, save and except in such cases as fall legitimately within the principle of the *bona fide* occupation of twelve months, as in the last preceding article set forth.

And now, in order that Her Majesty's said commissioner may be the better able to discharge the important duties with which he is entrusted,—I hereby charge and exhort all Her Majesty's subjects to be aiding and assisting him while acting in the performance of his several functions, that so the affairs of the Natal district may the more speedily and satisfactorily be settled and arranged,—an efficient though, as much as may be, inexpensive Government, supported by Her Majesty's power and authority, be substituted for an anomalous state, productive of weakness and disunion,—the gracious desire of Her Majesty to knit the hearts of all her subjects to her person and government, as evinced by her willingness to concede to her people at Port Natal every just personal right, and every reasonable political privilege, be happily accomplished,—and the natural resources of that country be gradually developed under Her Majesty's firm but fostering rule, stimulating the industry which can never prosper but beneath settled institutions, and securing the advantages which are enjoyed by every colony of Great Britain.

*God save the Queen!*

Given under my hand and the public seal of the settlement, at Cape Town, Cape of Good Hope, this 12th day of May 1843.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

Proclamation  
May 12, 1843.

Port Natal.

*Proclamation by His Excellency Major General Sir  
George Thomas Napier, K. C. B. &c. &c.*

Whereas I did, on the 11th day of August 1842, issue a certain proclamation offering a reward of one thousand pounds to any person or persons who should apprehend and lodge in any of Her Majesty's prisons, or with the officer commanding Her Majesty's forces at Port Natal, in order to their being dealt with according to law, the certain persons following, that is to say, *Joachim Prinslo, Jacobus Johannes Burger, Michiel van Breda, and Servaas van Breda*, alleged to have been guilty of the crime of high treason; and offering also a reward of two hundred and fifty pounds for each of the said persons who should be apprehended and lodged in manner aforesaid;—And whereas, under existing circumstances, it appears to me to be expedient that the said proclamation should be recalled,—but so, however, as not to amount to any pledge or promise of pardon to any of the said persons so charged as aforesaid, with the crime aforesaid, whose cases will hereafter be fully considered and finally determined upon as justice shall require;—Now therefore, I do hereby proclaim, declare, and publish, that the said proclamation of the 11th August 1842, and the offers of reward therein made, have been, and the same are hereby wholly abrogated and withdrawn, and that the said persons in the said proclamation named, and for whose apprehension the said offers of reward were made, are hereafter, to be viewed and considered just as if the said proclamation had never been issued, and not otherwise or differently. <sup>(1)</sup>

Given under my Hand and the Public Seal of the Settlement, at Cape of Good Hope, this 10th Day of May 1842.

(Signed) George Napier, Governor.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

No. 5, 1843.—Signed, Geo. Napier.

*Ordinance, for applying a sum not exceeding £161,039 19 5,  
for the service of the year 1844. <sup>(2)</sup>*

Ordinance  
No. 5, 1843.

Estimates  
1844

WHEREAS the expenditure required for the service of the government of this colony for the year 1844, has been estimated at the sum of one hundred and sixty-one thousand and thirty-nine pounds, nineteen shillings and five pence;—

Be it therefore enacted by the governor of the Cape of Good

<sup>(1)</sup> *Vide infra* Proclamation.

<sup>(2)</sup> Sanctioned by the Queen, *Vide* Govt. Notice, 8th May 1844.

Hope, with the advice and consent of the legislative council thereof, that a sum, not exceeding one hundred and sixty-one thousand and thirty-nine pounds, nineteen shillings and five pence be charged upon the revenue of the said colony, for the service of the year 1844, and applied in the manner following, that is to say :—

*For the ordinary expenditure*, a sum not exceeding eighty-six thousand eight hundred and sixty-three pounds, nineteen shillings, and two pence, in the manner set forth in the two schedules hereunto annexed, marked No. 1, A. and B. respectively.

*For the fixed contingent expenditure*, a sum not exceeding twenty-nine thousand four hundred and forty-two pounds, two shillings, in the manner set forth in the two schedules hereunto annexed, marked No. 2, C. and D. respectively.

*For the unfixed contingent expenditure*, a sum not exceeding twenty-four thousand seven hundred and seventy eight pounds, and nine shillings, in the manner set forth in the two schedules hereunto annexed, marked No. 3, E. and F. respectively.

*For the local expenditure in the western division of the colony*, a sum not exceeding eight thousand four hundred and seventy pounds, and fifteen shillings, in the manner set forth in the schedule hereunto annexed, marked No. 4.—And

*For the supplementary expenditure*, a sum not exceeding eleven thousand four hundred and eighty-four pounds, fourteen shillings, and three pence, in the manner set forth in the two schedules hereunto annexed, marked Nos. 5 and 6 respectively.

#### SCHEDULE No. 1.—(A.)

##### Ordinary Expenditure.—Western Districts.

For the Governor and-Private Secretary,	-	£5300	0	0
Colonial Office,	-	3120	0	0
Council Office,	-	527	0	0
Treasury,	-	1650	0	0
Registry of Deeds,	-	1270	0	0
Audit Office,	-	1260	0	0
Stamp Office,	-	245	0	0
Surveyor-General and Civil Engineer's Office,	-	2285	0	0
Customs' Department, throughout the colony,	-	4115	15	0
Wharf Department, Table-Bay.	-	240	0	0
Port Office, Table Bay,	-	1092	10	0
Tax, Tithes and Tranfer Dues' Department,	-	702	0	0
Printing Office,	-	385	0	0
Post Offices,	-	921	15	0
Somerset Hospital,	-	919	10	0
Pauper Asylum,	.	155	0	0
Vaccine Institution,	.	50	3	9
Colonial Medical Committee,	.	52	10	0
Supreme Court,	.	6510	0	0
Master's office,	.	1970	0	0
Attorney-general's office,	.	1390	0	0
Sheriff's office,	.	750	0	0



Ordinance	For the Police office and town gaol, . . .	1401	10	0
No. 5, 1843.	New Police Establishment, . . .	2862	12	0
	Robben Island ditto, . . .	195	0	0
Estimates	Civil establishment, Cape Division, . . .	2544	0	0
1844	Stellenbosch ditto, . . .	1462	10	0
	Worcester ditto, . . .	1598	0	0
	Clanwilliam ditto, . . .	918	15	5
	Swellendam ditto, . . .	1615	0	0
	George ditto, . . .	1103	15	0
	Beaufort ditto, . . .	1000	0	0
	Gaols in the country, . . .	2413	10	0
	Church establishment, . . .	5871	0	0
	Free schools throughout the colony, (fixed allowance) . . .	3460	0	0
	Pensions, civil, ditto . . .	10666	4	2
	Pensions on church establishment, throughout the colony, . . .	208	0	0
	Ditto, military and Hottentot captains, ditto . . .	845	2	4
	Colonial agency, . . .	200	0	0
		Total, £73,216	2	8

## SCHEDULE No. 2.—(C.)

## Fixed Contingencies.—Western Districts.

For the governor, stationery, . . .	£ 25	0	0
Colonial office, petty expenses, . . .	41	13	9
Stationery and bookbinding, . . .	200		
Newspapers, . . .	42	3	
Despatch bags, &c. . .	8		
	291	16	9
Council office, stationery and bookbinding, . . .	15	0	0
Treasury, stationery and bookbinding, . . .	60	0	0
Deeds' Registry, ditto, ditto, . . .	160	0	0
Audit office, ditto, ditto, . . .	40	0	0
Stamp office, stationery and paper for stamps, . . .	150	0	0
Surveyor general's office, stationery, . . .	£30		
Travelling expenses, . . .	250		
	280	0	0
For the civil engineer's office, stationery, . . .	25		
Allowance for government gardens, . . .	200		
Travelling expenses, . . .	25		
Removal and shipment of stores, . . .	220		
	470	0	0
Customs, compensation to sub-collector at Port Elizabeth, . . .	100		
Petty expenses, . . .	3		
Stationery, Bookbinding, &c. . .	90		
	193	0	0
Port Office, petty expenses and stationery, . . .	20	0	0
Tax and tithes' office, stationery, . . .	15	0	0
Printing office, petty expenses and stationery, . . .	84	0	0
Post office, stationery and bookbinding, . . .	50		
Supply and repairs of bags, &c. . .	100		
For the conveyance of Mails, . . .	3680	7	9
Ferrying the mails across the Gauritz (12l.) Sunday's (15l.) Kafferkuils (9l.) Buffeljagts (8l.) Duiven-hoks (8l.) Brakke (18l.) and Vette Rivers (10l.) . . .	80	0	0
Gratuities to masters of vessels, . . .	50		
Candles, twine, coolie-hire, &c , and jackets and hats for Letter-carriers, . . .	80	2	6
	4,040	10	0
Somerset hospital, miscellaneous, . . .	1676	0	0
Pauper asylum, miscellaneous, . . .	758	0	0

Vaccine institution, stationery,	5	0	0	Ordinance No. 5, 1843.  Estimates 1844
Leper institution, miscellaneous,	1200	0	0	
Medicines for country districts	100	0	0	
Supreme court, stationery, and bookbinding,	70			
Petty expenses,	27			
		97	0	0
Master's office, stationery and bookbinding,		75	0	0
Attorney-general's office, do. do.		12	0	0
Sheriff's office, do. do.		40	0	0
Police department, provisions and clothing for convicts, in				
Cape Town, Cape Division, and Robben Island,	4000			
Stationery and bookbinding,	55			
		4055	0	0
Robben Island,—Stationery		15	0	0
Superintendent general of education,—stationery and book-				
binding,		20	0	0
House-rent to civil commissioner, Cape division,		100	0	0
Do. to Resident Justice of the Peace at Simon's Town,		50	0	0
Transport and lodging of circuit judges,		1225	0	0
Conveyance of district posts,		365	15	0
Provisioning and clothing of convicts and prisoners in the				
districts,		1995	0	0
Transport and maintenance of lepers in ditto,		62	10	0
Stationery for country districts,		500	0	0
Expenses of witnesses in criminal cases,		753	0	0
Petty prison expenses,		65	0	0
Horse-hire for serving summonses, for district courts,		527	0	0
Transport of convicts, &c.		440	0	0
Postages, Western Divisions,		56	0	0
Inquests,		175	10	0
Expenses of corporal punishments under sentence of district courts,		36	0	0
Bookbinding in districts,		25	0	0
Allowances to retired Field-cornets		170	0	0
		Total, £	20,442	12 0

## SCHEDULE No. 3.—(E.)

## Unfixed Contingencies.—Western Districts.

For the governor, travelling expenses,	£300	0	0
Colonial Office,—Supply of the government gazette, and			
extra printing,	230		
Presents to border chiefs, paid through the colonial office,	50		
Sundry miscellaneous expenses,	8		
Fuel,	15		
		303	0 0
Council Office,—Fuel, &c.		5	0 0
Treasury,—Petty expenses, fuel, &c.		60	0 0
Deeds' Registry,—Ditto, ditto,		5	0 0
Audit Office,—Petty expenses,		15	0 0
Surveyor General's Office,—For re-surveys of lands,	800	0	0
Fuel and petty expenses,	9	10	0
		809	10 0
Civil Engineer's Department,—For ordinary repairs and			
alterations.			
Repairs to custom-house, searcher's office, warehouse, boat-			
shed, and tide-waiter's offices,	150		
Ditto to town prison,	60		
Alterations to do.	60		
Ditto to public offices,	100		

<b>Ordinance</b> <b>No. 5, 1843.</b>	Ditto to colonial office,	50		
	New Slate Roof to do.	360		
	Additional Room to do,	277		
<b>Estimates</b> <b>1844</b>	Repairs to government house,	150		
	New Roof and Ceiling to Ball-room of do.	1937		
	Ditto to stables,	50		
	New Windows to do.	30		
	Ditto to gardener's cottage, walls and fences,	105		
	New Gates and Fence in front of Government House.	55		
	Repairs to public buildings in caledon-square,	200		
	Ditto to pauper asylum,	70		
	Ditto to light-houses, signal stations and port office,	100		
	Ditto to Residence of Lighthouse keeper at Mouille Point, &c,	4		
	Ditto to Somerset hospital,	200		
	Ditto to free school in keerom-street.	25		
	New Fence and Gate for do,	15		
	Repairs to police station house,	30		
	Ditto to Negro barracks, including allowance to Superin-			
	tendent,	100		
	Ditto to buildings on Robben Island,	50		
	Supply and repairs of furniture.			
	For public offices,	100		
	For government house,	30		
	For supplies.			
	Implements,	100		
	Lime bags,	10		
	Coals for forge,	20		
	Oil and cotton for light houses,	180		
	Keep of horse and cart,	27	9	0
	Miscellaneous.			
	Repairs to government and circuit wagons,	350		
	Winding clock in public offices,	8		
			5003	9 0
	Customs' Department,—Miscellaneous,	100	0	0
	Port Office,—Repairs of boats, &c.	40	0	0
	Printing Office,—Repairs to presses, &c.	11	0	0
	Somerset Hospital,—Clothing and furniture,	284	0	0
	Pauper Asylum,—Clothing and furniture,	180	0	0
	Vaccine Institution—Hire of house,	90		
	Supply of Lancets, &c.	5		
			95	0 0
	Supreme Court,—Fuel, light, and miscellaneous,	22	9	0
	Master's Office,—Fuel and sundries,	5	0	0
	Attorney-General's Office,—Fuel,	3	10	0
	Sheriff's Office,—Summoning jurors and witnesses,	1350		
	Expenses of criminal punishments,	300		
	Fuel;	3		
			1653	0 0
	Police Department.—Town Prison, &c., and House of Correction.			
	Bedding for convicts,	£200		
	Ditto for prisoners,	100		
	Straw for bedding,	20		
	Fuel,	50		
	Clothing for house of correction,	40		
	Smith's work,	40		
	Petty requisites,	200		
	Medicines,	20		
	Utensils,	25		
	Coir rope,	75		



Implements of punishment, handcuffs, &c.	. 12				
Passage, victualling, &c. of convicts forwarded by sea,	. 250				
Boat, coach, wagon, and horse-hire,	. 100				
Police surgeon, allowance for forage,	. 27	9			
Expenses for advertisements,	. 6				
Coals for the police court room,	. 3	15			
Hymn books and tracts for town prison,	. 3				
			1172	4	0

Ordinance  
No. 5, 1843.  

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Estimates  
1844

*New Police Establishment.*

45 Sets of Uniform,	. 400				
Lamp Oil, Cotton, &c,	. 43				
Forage for Police Horses,	. 355				
Horses to replace unserviceable ditto,	. 100				
Staves and Rattles,	. 15	16			
Farriery, Repairs of Saddles, &c,	. 75				
Glaziers' Work, Stable Lanterns, &c,	. 16	12			
Allowance to Superintendent for Forage for two Horses,	. 54	18			
			961	5	0

*Robben Island Establishment.*

Medicines,	. 25				
Materials, working implements, and gunpowder for quarries,	. 270				
Ditto for making shoes,	. 25				
Fuel for lime works,	. 150				
Bedding,	. 60				
Horses, forage for 10	. 220				
To replace one horse,	. 20				
Hire of transport and coolies,	. 100				
Allowance to the commandant for superintending the supplies of provisions,	. 54	18			
Ditto to ditto for forage,	. 27	9			
Ditto to a second overseer,	. 45				
Allowance to two convict overseers,	. 6				
Ditto to storekeeper, civil engineer's department, for sale of lime,	. 60				
Repairs to Harness,	. 7	10			
Ditto and expenses of island boat,	. 130				
			1200	17	0
School Establishment,—travelling expenses to superintendent general,	. 50				
Transport of ditto,	. 100				
Additional, for government free schools,	. 1295				
			1445	0	0

*Miscellaneous.*

In aid of schools, &c. not on the govt. establishment,	1000				
S. A. College, annual contribution,	. 200				
Probable expenditure of colonial agent in England, under authority of colonial department,	. 1000				
Pensions to persons wounded or worn out in the service of the colony, or their families, (western and eastern divisions,)	. 200				
Allowance to the chief Waterboer, for schools at Griqua Town, and for conveyance of letters, &c. (paid in Cape Town,)	. 155				
			2555	0	0

*Cape Division.*

Allowance to civil commissioner for keep of a horse,	. 27				
Horse and wagon-hire for department, on public duty,	. 12				
Forage allowance to field-cornet of the Downs, &c,	. 15				
Ditto to horses on the gaol establishment,	. 150				

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Ordinance No. 5, 1843.	Shoeing and saddlery for horses on the gaol establishment,	20		
	To replace one horse,	20		
Estimates 1844	Repairs of boats at Simon's Town and Saldanha Bay,	20		
	Necessaries for gaols, prisoners, &c.	60		
	Horse-hire to field-cornets on public service,	30		
	Coals for court room,	1	10	
	Conveyance of record books from Simon's Town,	4	10	
	Medical expenses and medicine	30		
	Allowance to two constables, (attached to the Magistrate of Cape Town) not provided with lodgings, at 9l. each,	18		
	Stabling, forage, &c., for horse in Cape Town,	27		
	Repairs of buildings, at Simon's Town,	30		
	Do. searcher's and port offices,	15		
	Do. free school,	20		
	Do. parsonage,	20		
	Do. to prison at Rondebosch,,	50		
	New Roof to do	150		
	Do. to buildings at Saldanha Bay,	30		
				750 0 0
	<i>Stellenbosch.</i>			
	Articles for gaols, prisoners, and convicts,	100		
	Supply and Repair of Tools, and putting on and taking off			
	Convicts' Irons,	40		
	Horse and wagon-hire for civil commissioner on public duty,	15		
	Expresses and horse-hire to field-cornets on ditto,	150		
	Interpretations, and medical attendance circuit court,	30		
	Medical attendance at the Paarl,	20		
	Repairs of public buildings,	150		
	Ditto of gaols,	50		
	Temporary clerk to clerk of the peace during sessions of circuit courts,	7	10	
	Attendance, &c. on sick in hospital,	20		
	Fuel,	3		
				595 10 0
	<i>Worcester.</i>			
	Necessaries for gaols, prisoners, and convicts,	150		
	Supply and repair of tools, putting on and taking off			
	convicts' irons,	40		
	Interpretations, circuit court,	20		
	Repairs of buildings,	75		
	Repairs to gaol,	45		
	Horse-hire to field-cornets on public duty,	150		
	Expenses of justice of the peace and hire of lock-up house at Tulbagh,	25		
	Medical expenses,	10		
				515 0 0
	<i>Clanwilliam.</i>			
	Necessaries for gaols, prisoners, and convicts,	10		
	Supply and Repair of Tools, and putting on and taking off			
	Convicts' Irons,	7	10	
	Horse-hire, &c. to clerk of the peace,	10		
	Interpretations circuit court,	10		
	Horse and wagon hire to civil commissioner on public duty,	15		
	Horse-hire to field-cornets on public duty	35		
	Horse-hire to district surgeon,	15		
	Repairs of public buildings,	25		
	Conveyance of record books to Worcester, for inspection of circuit judge,	5		
				132 10 0

<i>Swellendam.</i>			Ordinance No. 5, 1843.	
			Estimates 1844	
Necessaries for gaols, prisoners, and convicts,	-	40		
Supply of tools and irons to convicts, &c.	-	60		
Interpretations, circuit court,	-	20		
Horse and wagon-hire for civil commissioner on public duty	-	50		
Horse-hire for field-cornets on public duty,	-	75		
Repairs of buildings,	-	105		
Ditto of leper institution,	-	20		
Ditto to gaol,	-	30		
Temporary clerk to clerk of the peace during sessions of circuit courts,	-	7 10		
<i>Hire of Building for Police Station House,</i>	-	12		
<i>Do. for Customs at Port Beaufort,</i>	-	25		
			444	10 0

<i>George.</i>				
Necessaries for gaol and convicts,	-	10		
Repairs of public buildings and gaol,	-	20		
Interpretations, circuit court,	-	20		
Horse-hire to field-cornets on public duty,	-	50		
Supply and repair of tools, and putting on and taking off convicts' irons,	-	5		
Horse and wagon-hire to civil commissioner on public duty,	-	50		
Ditto for customs at Mossel Bay,	-	50		
Temporary clerk to clerk of peace during sessions of circuit court,	-	3		
			298	0 0

<i>Beaufort.</i>				
Necessaries for gaols, prisoners, and convicts, supply and repair of tools, and putting on and taking off convicts' irons,	-	45		
Interpretations circuit court,	-	20		
Horse-hire to field-cornets on public duty,	-	90		
Repairs of buildings,	-	25		
Horse & Wagon-hire for civil commissioner on public duty,	-	10		
Horse-hire for district surgeon on public duty,	-	20		
			210	0 0

For conveyance of gazettes, &c. to the field-cornetcies,  
and the maintenance of public watering and baiting  
places—

The Cape division,	-	100		
Stellenbosch ditto,	-	51		
Worcester ditto,	-	150		
Swellendam ditto.	-	161		
George ditto,	-	120		
<i>Beaufort,</i>	-	91 16		
			673	16

Total £19,758 11 0

#### SCHEDULE No. 4.

##### Local Expenditure.—Western Districts

##### Wharf—Table Bay.

Petty Expenses, Wharf Office,	-	6		
Ordinary Repairs to three Wharfs,	-	500		
Do. to Cranes,	-	130		
Supply of Tackle,	-	200		
Superintendence of Cranes, Tackle, &c	-	109 10		
			945	10 0



Ordinance No. 5, 1843.	Wharfs—Simon's Bay,			
Estimates 1844	Construction of new Wharf,	.	1646	
	Supply of Tackle, &c,	.	100	
				1,746 0 2

*Roads and Ferries.—Cape Division.*

Repairs of toll roads,	.	£1500		
Ditto streets, &c. Simon's Town,	.	90		
Ditto toll-house, ditto,	-	20		
Ditto upper and lower toll-houses near Cape Town	.	20		
Ditto toll-house, Muizenburg,	.	20		
Ditto of bridges over Liesbeek's River,	-	10		
Ditto of water courses at Simon's Town,	-	30		
Ditto of post-roads in the division,	.	300		
				1990 0 0

*Stellenbosch.*

Repairs of Fransche Hoek road,	.	310 15		
Ditto to bridges, &c. at Fransche Hoek,	.	30		
Repairs to Sir Lowry Cole's Pass,	} including also re- pairs of road from Eerste river to the Bot river, and re- pairs to cause-way on Palmiet river.	360		
Ditto to Houw Hoek,		360		
Ditto to bridge over the Eerste River,	.	10		
Ditto of post-roads in the division,	.	300		
				1370 15 0

*Worcester.*

Tools and labor for repair of Roodezand Kloof,	-	14		
Repair of toll-houses, ditto,	-	20		
Repairs of post-roads in the division,	-	150		
				184 0 0

*Clanwilliam.*

Repairs of ferry boat,	.	2 10		
Repairs of post-roads in the division,	.	150		
				152 10 0

*Swellendam.*

Repairs of main post road through the division,	.	245		
Ditto of branch roads,	.	100		
Ditto of road through Cogman's Kloof,	-	12		
Ditto from Caledon to Hemel en Aarde,	.	15		
Ditto to ferry boats and buildings,	.	25		
				397 0 0

*George.*

Repairs to Cradock's Kloof,	.	650		
Ditto of main road through Attaqua's Kloof,	-	360		
Ditto of post-roads,	.	200		
Ditto of Branch Roads,	.	100		
Towards Construction of Causeway through Great Brak River,	.	150		
				1460 0 0

*Beaufort.*

Repairs of post-roads through the division,	-	75		
Ditto of Bokke-kraal Road,	.	150		
				225 0 0

Total £8,470 15

## SCHEDULE No. 5.

*Supplementary Expenditure.—Western Districts.*

Ordinance  
No. 5, 1843.  
Estimates  
1844

*Colonial Office.*

Salary to a scavenger, for the public offices,	£30		
Ditto to gate-keeper, ditto,	10	40	0 0

*Council Office.*

Increase of salary to messenger,		9	0 0
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*Treasury.*

Ditto ditto of chief clerk,	30		
Salary to Teller,	200	230	0 0

*Audit Office.*

Increase of salary to chief clerk,		20	0 0
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*Surveyor-General's Office.*

Ditto to an additional clerk,		90	0 0
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*Civil Engineer's Office.*

Salary to assistant Civil Engineer,	250		
Ditto to temporary clerk,	78 10		
Increase of ditto to book and storekeeper,	25		
Salary to light-house keepers,	120	473	10 0

*Customs' Department.*

Salary to Temporary clerk, Cape Town,	90		
Ditto, Port Elizabeth,	90		
Ditto to two landing waiters, searchers, & tide surveyors,	400		
Ditto to three tide waiters,	180		
Ditto to two boatmen and watchmen,	125 15	885	15 0

*Wharf Department.*

Salary to Additional Clerk,		120	0 0
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*Port Office.*

Salary to extra boatman,	50		
Increase of ditto to boat's crew, signalman at the port office, and messenger,	51 10		
For carriage of provisions to Lion's-hill station,	18 6	119	16 0

*Tax and Transfer Dues' Office.*

Increase of salary to clerk in transfer branch,		15	0 0
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*Printing Office.*

Increase of Salary to superintendent,	30		
Ditto ditto to two pressmen, at 15 <i>l.</i> each,	30		
Salary to an additional compositor,	60	120	0 0

*Post Office.*

Increase of salary to clerks, letter carriers, and country postmasters, western division,	131 15		
Two agents, at Langekloof (15 <i>l.</i> ), and Zuur Anys (10 <i>l.</i> )	25	156	15 0

*Vaccine Institution.*

Salary of messenger,		36	0 0
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*Robben Island.*

Salary to Boatman		72	0 0
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Ordinance  
No. 5, 1843.  
Estimates  
1844

*Police Office.*

Increase of salary to first clerk,	-	40		
Ditto to matron of house of correction	-	12		
			52	0 0

*Cape Division.*

Increase of salary to the clerk of the magistrate's court,				
Cape Town,	.	60		
Salary to an extra clerk to civil commissioner,	.	75		
Ditto to ditto in clerk of the peace office,	.	20		
Ditto to resident surgeon, Simon's Town,	.	27	10	
Ditto to superintendent of waterworks, ditto	.	39	13	
Increase of salary to police at Simon's Town,	.	18		

*Church Establishment.*

Salary to minister of the Dutch reformed church at				
Wynberg,	.	200		
Ditto to clerk at ditto,	.	30		
Ditto to two chaplains at ditto and Rondebosch,	.	200		
Ditto to two Clerks at ditto,	.	40		
Ditto to clerk at Piquetberg,	.	30		
			740	3

*Stellenbosch Division.*

Salary to district surgeon,	.	100		
Ditto to church clerk at Wellington,	.	30		
<i>Clanwilliam ditto.</i>				
Increase of salary to civil commissioner,	.	60		
Ditto to ditto of clerk to do.,	.	20		
Salary to an extra clerk,	.	80		
Do. to district postmaster,	.	3		
Ditto to district surgeon,	.	100		
Ditto to ferry-boatman,	.	7	10	
Increase of salary to police,	.	17		
			147	10 0

*Swellendam ditto.*

Salary to two ministers of Dutch reformed church at				
Riversdale and Breda-dorp,	.	400		
Ditto to two clerks to ditto,	.	60		
Increase of salary to four constables, at £6 each,	.	24		
			484	0 0

*George ditto.*

Increase of salary to civil commissioner,	.	60		
Ditto to clerk to do.	.	20		
Salary to an extra clerk,	.	80		
Salary, &c. to two overseers of crown forests,	.	224		
			384	0 0

*Beaufort ditto.*

Increase of salary to civil commissioner,	.	60		
Ditto to clerk to do.	.	20		
Salary to an extra clerk,	.	80		
Ditto to district surgeon,	.	150		
			310	0 0

*Wynberg.*

## TEMPORARY MAGISTRACIES.

Hire of offices, and additional buildings for police,	.	89	10	
Salary to clerk of the peace,	.	100		
Ditto to magistrate's clerk,	.	80		
Ditto to two constables, at £31 10 each,	.	63		
Increase of do. to police constable acting as gaoler,	.	8		
Conveyance of record books for inspection of supreme court,	.	1		





Ordinance No. 5, 1843.	House-rent for minister, Kat River,	.	.	50	0	0
	Ditto for chaplain, Port Elizabeth,	.	.	40	0	0
Estimates 1844	Office rent for lieutenant-governor,	.	.	70	0	0
	Transport for ditto,	.	.	200	0	0
	Ditto for circuit judges,	.	.	485	0	0
	Ditto for civil commissioners, medical officers, and field-cornets,	.	.	495	0	0
	Maintenance and clothing of convicts and prisoners,	.	.	3045	10	0
	Conveyance of convicts and prisoners,	.	.	470	10	0
	Ditto of lepers and destitute persons,	.	.	110	0	0
	Petty prison requisites,	.	.	125	0	0
	Inquests,	.	.	145	0	0
	Expenses of witnesses in criminal cases in district courts,	.	.	870	0	0
	Horse-hire, in summoning ditto,	.	.	455	0	0
	Postage on official letters,	.	.	65	0	0
	Maintenance and clothing of lepers, &c.	.	.	820	0	0
	Hire of buildings for ditto,	.	.	105	0	0
	Bookbinding,	.	.	29	10	0
	Stationery,	.	.	600	0	0
	Horse allowance to justice of the peace, Fort Beaufort,	.	.	18	5	0
	Medicines for gaols,	.	.	100	0	0
	Allowances to retired field-cornets,	.	.	60	0	0
				Total	£8,999	10 0

## SCHEDULE No. 3.—(F.)

*Unfixed Contingencies.—Eastern Districts.**Albany Division.*

House-rent for chaplain at Bathurst,	.	.	30
Ditto for extra police, Graham's Town, and for constable at Bathurst,	.	.	45
Necessaries for gaols, prisoners, and convicts, supply and repair of convicts' tools, putting on and taking off irons of convicts, tools for repairs of roads, &c.	.	.	500
Execution of criminal sentences,	.	.	20
Interpretations before circuit court,	.	.	20
Ditto magistrate's court, from the Dutch,	.	.	60
Medical attendance in court,	.	.	30
For the conveyance of extra official despatches,	.	.	5
Incidental petty expenses,	.	.	50
Presents for Kafirs and other native tribes,	.	.	100
Repairs to Residence of Lieut.-Governor,	.	.	40
Ditto to furniture of ditto,	.	.	10
Rations for destitute in the division,	.	.	40
Conveyance of mail from Graham's Town to Salem,	.	.	10
Hire of Lock-up House at Salem,	.	.	6
Ditto ditto at Sidbury,	.	.	5
Temporary Clerk to Clerk of the Peace, during Sessions of Circuit Court,	.	.	15
Medical attendance at Fort Beaufort,	.	.	50
			1036 0 0

*Uitenhage.*

House-rent for police and convicts at Port Elizabeth,	.	.	81
Rent of the port office, at ditto,	.	.	12
Ditto of custom house and warehouse at ditto,	.	.	50
Necessaries for gaols, &c.	.	.	50
Execution of criminal sentences,	.	.	20
Interpretations and medical attendance before circuit courts,	.	.	30
For the conveyance of extra official despatches,	.	.	35
Incidental petty expenses,	.	.	100





Ordinance No 5, 1843.	For conveyance of gazettes, &c. to field-cornetries, in the following divisions—			
Estimates 1844	Uitenhage division,	-	-	90
	Somerset ditto,	-	-	50
	Cradock ditto,	-	-	50
	Graaff-Reinet ditto,	-	-	50
	Colesberg ditto,	-	-	71
				<hr/> 311 0 0
				Total £5,019 18 0

## SCHEDULE No. 6.

*Supplementary Expenditure.—Eastern Districts.**Albany Division.*

Salary to two extra clerks in the civil commissioner and resident magistrate's offices,	-	-	160
Ditto and forage allowance to a field-cornet and superintendent of convict labour and roads in and near Graham's Town,	-	77	7 6
Ditto of two constables at Salem and Sidbury,	-	40	
Ditto of four additional do. in Graham's Town,	-	144	
Allowance to extra do. at the sittings of circuit,	-	10	
Salary to market-master at Fort Beaufort,	-	22	10
Ditto to police at ditto,	-	72	
Ditto to district surgeon,	-	150	
			<hr/> 675 17 6

*Uitenhage ditto.*

Salary to district surgeon, Uitenhage,	.	150	
Ditto to Fingo interpreter, ditto,	.	7	4
Ditto to district surgeon, Port Elizabeth,	.	60	
Ditto to messenger, magistrate's court, ditto,	.	25	
Ditto to overseer of convicts, ditto,	.	68	8 9
Ditto to two extra constables, ditto, at £30,	.	60	
Ditto to one extra boatman, ditto,	.	36	
Increase of salary to Coxwain, (12l.) and 4 boatmen (9l. each,) at ditto,	.	48	
Salary to sexton ditto,	.	18	15
Ditto to superintendent of leper institution, ditto,	.	40	
			<hr/> 513 7

*Cradock ditto.*

Salary to district surgeon,	.	150	
Ditto to messenger,	.	25	
Ditto to two additional constables,	.	56	10
Kafir Interpreter,	.	20	
			<hr/> 251 10 0

*Graaff-Reinet ditto.*

Salary to district surgeon,	.	150	
Superintendence and repairs of town clock,	.	22	10
Superintendent of dams and canals,	.	45	
			<hr/> 217 10 0

*Colesberg ditto.*

Salary to two additional constables,	.	56	10
Ditto to messenger,	.	25	
Ditto to district surgeon,	.	150	
Ditto to Kafir Interpreter,	.	25	
Ditto to field-commandant,	.	28	
			<hr/> 284 10 0

*Port Office.*

Salary to postmaster at Fort Beaufort,	.	12	
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Proclamation  
July 14, 1843.

Port Natal  
Warning  
against cer-  
tain disturb-  
ances.

formerly misguided subjects,—and to collect information relative to the local institutions best adapted to secure, under her Majesty's Sovereignty, the peace, protection, and contentment of the new colony :

And whereas, notwithstanding the distinct announcement already published by me for general information, that nothing could have induced Her Majesty's advisers to admit the independence of the emigrants, or to permit them to come under the protection or dominion of any foreign power,—certain evil-minded and disaffected persons at and near Pieter Maritzburg have evinced a disposition to thwart Her Majesty's commissioner in the discharge of his duties, to withhold the acknowledgment of their allegiance to Her Majesty, and to intimidate, by threats and clamour, the loyal and well affected part of the community :

Now, therefore, I do hereby proclaim, declare, and make known, that in order to ensure the preservation of order and tranquillity, I have directed the immediate removal from this colony to Port Natal of 200 rank and file of H. M. 45th regiment, together with a corresponding proportion of artillery and guns, to reinforce major Smith, the officer commanding at Port Natal, who will be empowered, upon their arrival, to advance to Pieter Maritzburg such a force as will effectually repress all tendency to riot and disturbance in that quarter, and efficiently protect Her Majesty's dutiful and loyal subjects from violence and outrage.

And I hereby strictly charge and exhort all Her Majesty's subjects to be active in suppressing the attempts of any mischievous and desperate men to excite turmoil and confusion, and postpone the peaceful settlement of affairs in Her Majesty's said colony.

And I do further proclaim, declare, and make known, that all persons at Port Natal who shall neglect to send in to Her Majesty's said commissioner, on or before whatever day the said commissioner shall limit for that purpose, their claims for lands to be granted to them by Her Majesty, in accordance with my previous proclamation of the 12th day of May 1843, will thereby forfeit all right to expect Her Majesty's favorable consideration, and render themselves ineligible to receive from Her Majesty any grant of land whatsoever.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 14th Day of July 1843.

(Signed) George Napier, Governor.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.



*Government Notice.*

Govt. Notice.

July 20, 1843.

Slave Trade.

His excellency the governor is pleased to direct the publication, for general information, of the following order of Her Majesty in council, bearing date the 4th day of January 1843, ordering that in all Her Majesty's colonies in which any slaves may have been, or may hereafter be, condemned or forfeited, under the certain act of parliament made and passed in the 5th year of the reign of His late Majesty King George the 4th, intituled "an act to amend and consolidate the laws relating to the abolition of the slave trade," and a certain other act, passed in the 3rd year of Her present Majesty's reign, chap. 73, intituled "an act for the suppression of the slave trade," the rules and regulations comprised in the annex to the said order in council marked A, so far as they can be applied, shall be in force and be observed in reference to such condemned or forfeited slaves, and to the persons to whom they may be bound as apprentices or servants.

Colonial Office, Cape of Good Hope, 20th July, 1843.

By His Excellency's Command,

(Signed)

John Montagu,

Secretary to Government.

*At the Court at Windsor, the 4th day of January 1843.*

WHEREAS by a certain act of parliament, made and passed in the fifth year of the reign of His late Majesty King George the Fourth, entitled "an act to amend and consolidate the laws relating to the abolition of the slave trade," it is amongst other things enacted as follows :—

"That all slaves and all persons treated, dealt with, carried, kept, or detained as slaves, which shall be seized or taken as prize of war, or liable to forfeiture under this act, shall and may, for the purposes only of seizure, prosecution and condemnation as prize or as forfeiture, be considered, treated, taken and adjudged as slaves and property, in the same manner as negro slaves have been heretofore considered, treated, taken, and adjudged when seized as prize of war, or as forfeited for any offence against the laws of trade and navigation respectively: but the same shall be condemned as prize of war, or as forfeited to the sole use of His Majesty, his heirs and successors, for the purpose only of divesting and barring all other property, right, title, or interest whatever, which before existed or might afterwards be set up or claimed in or to such slaves or persons so seized, prosecuted, or condemned, and the same nevertheless shall in no case be liable to be sold, disposed of, treated or dealt with as slaves, by or on the part of His Majesty, his heirs or successors, or by or on the part of any person or per-

Govt. Notice.  
July 20, 1843.

Slave Trade.

sons claiming or to claim from, by or under His Majesty, his heirs or successors, or under or by force of any such sentence or condemnation. Provided always, that it shall be lawful for His Majesty, his heirs and successors, and such officers, civil or military, as shall by any general or special order of the King in council be from time to time appointed to receive, protect and provide for such persons as shall be so condemned, either to enter and enlist the same or any of them into His Majesty's land or sea service as soldiers, seamen, or marines, or to bind the same or any of them, whether of full age or not, as apprentices for any term not exceeding seven years, to such person or persons, in such place or places, and upon such terms and conditions, and subject to such regulations as to His Majesty shall seem meet, and as shall by any general or special order of His Majesty in council be in that behalf directed and appointed; and any indenture of apprenticeship duly made and executed by any person or persons to be for that purpose appointed by any such order in council for any term not exceeding seven years, shall be of the same force and effect as if the party thereby bound as an apprentice had himself or herself, when of full age, upon good consideration duly executed the same; and every such person who shall be so enlisted or entered as aforesaid into His Majesty's land or sea forces as a soldier, seaman or marine, shall be considered treated and dealt with in all respects, as if he had voluntarily so enlisted or entered himself."

And whereas by an act passed in the third year of Her present Majesty's reign, chapter 73, entitled "an act for the suppression of the slave trade," authority was given to Her Majesty's cruisers to capture vessels engaged in the slave trade. And whereas it is therein enacted, "that it shall be lawful for the high court of admiralty, and for all courts of vice admiralty in any colonies of Her Majesty beyond the seas, to take cognizance of and to condemn such ships or vessels, and to adjudge, as to the slaves found therein, in like manner and under such and the like rules and regulations as are contained in any act or acts of parliament in force in relation to the suppression of the slave trade by British owned ships."

And whereas on the 7th day of September 1838, Her Majesty, with the advice of Her privy council, did make a certain order in council of that date, for promoting the industry of the manumitted slaves in the colonies of British Guiana, Trinidad, Saint Lucia, and Mauritius, a copy whereof is hereunto annexed, marked A.

And whereas, under and in pursuance of the said recited Acts of parliament, several vessels or the slaves on board such vessels, have been prosecuted to condemnation in several of Her Majesty's courts of vice admiralty in Her Majesty's possessions

abroad, or forfeiture of such slaves hath been pronounced as directed by the said statutes. And whereas it is expedient that in exercise of the powers vested in Her Majesty by the said recited acts, provision should be made for regulating the relative rights and duties of the persons who under the said acts of parliament, or any of them, may become entitled to their freedom, and of the persons to whom they may be bound as apprentices or servants:—Her Majesty doth therefore, by and with the advice of her privy council, and in pursuance and exercise of the powers vested in Her Majesty by the said recited acts,—order, and it is hereby ordered, that in all Her Majesty's colonies or plantations abroad, in which any slaves may have been or may hereafter be condemned or forfeited under the said recited acts, or any of them, the rules and regulations comprised in the said annex marked A, so far as they can be applied, shall henceforward be in force, and be observed in reference to such condemned or forfeited slaves, and in reference to the persons to whom they may be so bound as apprentices or servants, and Her Majesty, by and with the advice aforesaid, doth hereby revoke and annul all orders of Her Majesty, or of any of Her Majesty's royal predecessors in council, in so far as the same are repugnant to or inconsistent with this present order.

And the right honorable Lord Stanley, one of Her Majesty's principal secretaries of state, is to give the necessary directions herein accordingly.

C. C. Greville.

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(Order above referred to, as marked A.)

*At the court at Windsor, the 7th day of September 1838.*

WHEREAS so much of the act made in the 4th year of the reign of his late Majesty King William the 4th, for the abolition of slavery throughout the British colonies, for promoting the industry of the manumitted slaves, and for compensating the persons hitherto entitled to the services of such slaves, as relates to the apprenticeship of such manumitted slaves, hath ceased, or may shortly be expected to cease to be in force in the colonies of British Guiana, Trinidad, St. Lucia, and Mauritius. And whereas it is expedient that provision be made by law for regulating within the said colonies respectively, the relative rights and duties of masters and servants:—It is therefore hereby ordered by the Queen's most excellent majesty, by and with the advice of her privy council, that, within each of the said colonies of British Guiana, Trinidad, St. Lucia, and Mauritius, the various rules and regulations hereunto subjoined, and comprised in the following chapters, shall henceforth be observed, and shall have the force and effect of law.

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July 20, 1843.  
Slave Trade.



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Slave Trade.

And it is further ordered that all laws, statutes, and ordinances in force in the said colonies, or any of them, which are or shall be in any wise repugnant to, or inconsistent with, the present order shall be and the same are hereby repealed.

And it is further ordered, that for the purposes and within the meaning of this present order, the officer lawfully administering the government of any of the said colonies shall be deemed and taken to be the governor thereof, and that for the purposes and within the meaning of this present order the word "servant" shall be construed and understood to comprise any persons employed for hire, wages, or other remuneration, to perform any handicraft, or other bodily labor in agriculture or manufactures, or in domestic service, or as a boatman, porter, or other occupation in which the emancipated population of the said colonies or any of them were usually employed while in a state of slavery or as apprenticed labourers; and that for the purposes and within the meaning of this present order the word "masters" shall be construed and understood to comprise any person whether male or female employing for hire, wages, or other remuneration, any person falling within the before-mentioned description of a servant; and that for the purposes and within the meaning of this present order the words "contract of service" shall be construed and understood to comprise any agreement, whether oral or written, whether express or implied, into which any persons falling within the before-mentioned description of the word servant shall enter with any other person or persons for the performance of any work or labor of the kind herein-before particularly mentioned; and that for the purposes, and within the meaning of this present order, the words "stipendiary magistrate" shall be construed and understood to comprise such magistrates only as shall be included in any special commission of the peace, to be from time to time addressed to them in the name and on behalf of Her Majesty by the governor for the time being of the colony to which such magistrates may belong for the execution of this present order. And that for the purposes, and within the meaning of this present order, the words "chief civil judge" shall be construed and understood to mean, in the colony of British Guiana, the chief justice of the court of civil and criminal justice; of Demerara, and in the colony of Trinidad, the chief judge of the court of first instance; and in the colony of St. Lucia, the first president of the royal court; and in the colony of the Cape of Good Hope, the chief justice of the supreme court; and in the colony of Mauritius, the first president of the court of appeal.

And it is further ordered that all words in this order and in the said regulations importing the singular number, or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless it be

otherwise specially provided, or there be something in the subject or context repugnant to such construction.

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Slave Trade.

And it is further ordered that the governor of each of the said colonies, respectively, shall immediately upon the receipt by him of this present order, publish or cause to be published, a proclamation reciting at length the whole of the present order, and stating the day of the month and year on which the same was so received by him, and from that day the said order shall take effect, and have the force of law in each of the said colonies respectively; provided that if this order shall arrive in any of the said colonies before so much as aforesaid of the said recited act of parliament shall have ceased to be in force therein, the operation of this order in any such colony shall be suspended until so much as aforesaid of the said act shall have so ceased to be in force therein, but no longer. And the right honorable Lord Glenelg, one of Her Majesty's principal secretaries of state, shall give the necessary directions herein accordingly.

(Signed) C. C. Greville.

### *Cap 1. On the repeal of the existing Law.*

1. All laws in force in any of the colonies aforesaid respecting contracts of apprenticeship, or service to be entered into within the limits of the said respective colonies between any master and servant, or respecting the rights and duties of masters and apprentices, or servants, in such their relation to each other, or respecting the mode of enforcing such contracts, and the penalties to be inflicted in case of the breach or non-performance thereof, or respecting the dissolution of such contracts, are re-pealed.

2. The before-mentioned repeal shall not annul or affect any contract entered into within any of the said colonies previously to the taking effect therein of a certain order made by Her Majesty in council, on the 30th day of July 1838, relating to contracts of apprenticeship or service entered into either without or within the limits of the said respective colonies.

3. Nevertheless any contract of apprenticeship or service to be performed within any of the said colonies, shall be liable to be set aside in the manner and by the authority hereinafter mentioned, whatever may have been the date thereof, upon reasonable proof being made, to the satisfaction of such petty sessions as hereinafter mentioned, that either of the parties to such contract was induced to enter into the same by any fraud, misapprehension or concealment.

### *Cap. II. On the formation, or entering into, of contracts of service.*

Sec. 1. No contract of service shall be of any force or effect

Gort Notice,  
July 20, 1843.

Slave Trade.

within any of the colonies aforesaid unless the same shall be made within the limits and upon the land of the colony in which the same is to be performed.

2. No contract of service shall be in force within any of the said colonies for more than four weeks from the date thereof, unless the same shall be reduced into writing with all the formalities subsequently mentioned.

3. No written contract of service shall be in force within any of the said colonies, unless it shall be signed with the name or, in case of illiterate persons, with the mark of each of the contracting parties in the presence of a stipendiary magistrate, nor unless such stipendiary magistrate shall subscribe the written contract in attestation of the fact that it was entered into by the parties voluntarily, and with a clear understanding of its meaning and effect.

4. No such written contract for service shall be valid for more than one year from its date.

5. Every such written contract shall expire at the close of the stipulated time of service, without any notice on either side for that purpose.

6. Every such written contract shall specify, as accurately as may be, the general nature of the employment in which the servant is to be engaged.

7. When the contract is for work to be performed not by the piece but by the time, it shall specify as precisely as may be, the number of hours of daily labor, and the hours of the day at which such labor is to commence and to be suspended, and to recommence and to terminate.

8. In cases in which the remuneration or any part of it is to be made, not in money but in kind, the contract must specify with all practicable precision the nature and amount and quality of the articles to be supplied to the servant, and the time when, and the places or place at which such articles are to be delivered.

9. No servant's wages if contracted for in money may be paid in kind, or if contracted for in kind may be paid in money, or in any other than the stipulated kind except by the express consent of the servant.

10. All contracts of service shall be drawn up as nearly as possible in the following terms :

" Be it remembered that on this                      day of                      in the year of our Lord                      A. B. of                      and C. D. of                      appeared before me E. F. a stipendiary magistrate of the colony of                      and in my presence signed their names or marks (as the case may be) to the following contract of service.

" The said A. B. agrees to hire the services of the said C. D. and the said C. D. agrees to render to the said A. B. his services in the capacity of a                      for                      calendar



months, commencing on the                      day of                      inst., and terminating on the                      day of                      in the year                      ; and it is further agreed between the said parties that the said C. D. shall be employed in [field labor] or as [a household servant] or as [a boatman] (as the case may be) and that the hours of labor of the said C. D. shall not be more than

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July 20, 1843.  
Slave Trade.

daily commencing at the hour of                      , and terminating at the hour of                      , with [one hour] (or as the case may be) for breakfast at                      of the clock, and [one hour] (or as the case may be) for dinner at                      of the clock daily. And it is further agreed that the said A. B. shall pay to the said C. D. as such servant, as aforesaid, wages at and after the rate of                      by the [day, week, month, or year as the case may be] and that such wages shall be paid on the                      day of each [week or month as the case may be] and it is further agreed that the services of the said C. D. shall be partly or wholly (as the case may be) remunerated by the delivery to the said C. D. of the various articles and allowances specified in the list hereunto subjoined, which shall be of such amounts and qualities as are specified in the said list, so far as such specification is possible. [Here add any special engagement compatible with the law, and not adverted to in this form]

(Signed)

A. B.

C. D.

"The preceding agreement was signed by the above-named parties in my presence on the day and year above written voluntarily, the same being as far as I am able to judge fully understood by them respectively."

(Signed)

E. F.

Stipendiary Magistrate.

### *Cap III. On the apprenticeship of children.*

1. Children above the age of 10, and under the age of 16 years may be apprenticed by their fathers, or in the case of fatherless children by their mothers, or in the case of orphans by their guardians, to any trade in the practice of which any peculiar art or skill is requisite.

2. No child may be apprenticed as a labourer in husbandry or in the manufacture of colonial produce.

3. The apprenticeship of such children may be for any time not exceeding 5 years.

4. Any person of the full age of 16 years or upwards may, by his or her consent, be apprenticed to any trade in the practice of which any peculiar art or skill is required, for any term not exceeding 5 years.

5. The law respecting apprentices in England shall, as far as may be practicable, be applied to the case of such apprenticeships as aforesaid; but there shall be no apprenticeship of any

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kind, or under any circumstances, of persons as labourers in husbandry, or in the manufacture of colonial produce. All engagements for those purposes must be made in pursuance of the rules contained in the second chapter of these regulations.

6. Provided that the powers which in England are vested in the justices of the peace for enforcing or dissolving contracts of apprenticeship, and for authorizing the making of such contracts, shall in the said colonies be vested in the stipendiary magistrates thereof respectively.

*Cap. IV. On the enforcement of contracts of service.*

1. The stipendiary magistrates shall have an exclusive jurisdiction for the enforcement of all contracts of service, and for imposing all penalties for the breach, neglect, or non-performance thereof.

2. This jurisdiction shall be exercised in a summary manner.

3. For ensuring regularity and method in the exercise of this summary jurisdiction, the governor of each colony shall prepare forms of proceeding to be observed on lodging complaints, in issuing summonses, in the citation of witnesses, in the pronouncing awards and sentences, in issuing warrants or orders for the execution of such awards or sentences, and generally for the complete carrying of the powers of the stipendiary magistrates into execution, which forms shall be submitted by such governor to the chief civil judge of each of such colonies respectively, and being approved by such judge, the same shall be observed in all proceedings before the said stipendiary magistrates.

4. All such forms of proceedings shall from time to time be revised, repealed, or amended by the authority, and in the manner aforesaid, as occasion may require.

5. No sentence, award, or order made by any stipendiary magistrate in the execution of the jurisdiction so vested in him, shall be liable to be reversed, set aside, appealed from, or questioned by any court of justice in any of the said colonies, except on the ground of an unlawful assumption of power, or other illegality on the part of such stipendiary magistrate, but the same when consistent with law shall to all intents and purposes be binding, final, and conclusive.

6. For all acts done by any stipendiary magistrate in the exercise of the jurisdiction hereby vested in him, such magistrate shall have, and be entitled to, the same protection and indemnity as by any law in force in the colony any magistrate is entitled to claim or to have in respect of any act by him done in the execution of the powers vested by law in him.

7. On complaint preferred, and proof made, before any stipendiary magistrate, that any servant has neglected to perform his stipulated work, or that he has performed it negligently or improperly, or that by negligence or other improper conduct

he has injured the property of his master entrusted to his care, the magistrate may, in his discretion, adjudge the servant to any one or more of the following penalties, that is to say,—a pecuniary penalty for the benefit of the master, not exceeding one month's wages, or the commitment of the servant to prison, with or without hard labour, for any term not exceeding 14 days, or the dissolution of the contract of service.

8. On complaint preferred, and proof made, by a servant before any stipendiary magistrate, that his master has not paid the servant's wages, or delivered to him the articles stipulated for, or that the articles so delivered were not of the prescribed amount and quality, or that by the negligence or other improper conduct of the master the contract of service has not been faithfully performed, or that the master has ill used the servant, the stipendiary magistrate may make order for the payment of the wages in arrear, or for the delivery of the stipulated articles, or for compensation to be made to the servant for any injury by him sustained by such negligence or improper conduct of the master, or by his non-fulfilment of the contract, or by his ill usage of the servant; and if such order be not complied with, according to the exigency and tenor thereof, the magistrate shall and may issue a warrant for the seizure and sale of the goods of the master, or so much thereof as may be requisite for making such compensation; and failing any sufficient distress, the magistrate shall and may make order for the commitment of the master to prison for any time not exceeding one month, unless compensation be sooner made. The magistrate may also in any of the cases aforesaid, if he shall see fit, order the contract of service to be cancelled, either in addition to, or in substitution for, any such order as aforesaid.

9. Nothing herein contained shall prevent, or be construed to prevent, any proceeding before the ordinary tribunals of the colony for any ill usage of a servant by his master, or of a master by his servant, if the stipendiary magistrate shall decline to entertain any such case, and shall see fit to refer the same to the ordinary course of law.

10. If any question shall arise between a master and a servant respecting the meaning of their contract, or the rights of either party under the same, or the obligation imposed on either party thereby, it shall be lawful for the stipendiary magistrate on the application of either party to arbitrate between them, and his award on all such questions so brought before him shall be conclusive without appeal.

*Cap. V. On the subordination of the stipendiary magistrates to the governor, and of the police to the stipendiary magistrates.*

1. Every stipendiary magistrate shall hold his office during Her Majesty's pleasure, and shall be liable to be suspended



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therefrom by the governor of the colony until Her Majesty's pleasure shall be known.

2. Every such magistrate shall act for such district or districts as shall from time to time be assigned for that purpose by the governor. Every such magistrate shall be obedient to the lawful commands of the governor in all things relating to the duties of the office of such magistrate. Every such stipendiary magistrate shall be bound to make to the governor such general or special reports of his proceedings in the discharge of such his duty as the governor shall from time to time require of him.

3. The stipendiary magistrates shall from time to time as occasion may appear to them to require, or where they shall be so directed by the governor, meet together in petty sessions, at which sessions not less than two such stipendiary magistrates shall ever be present, and it shall be lawful for such stipendiary magistrates in petty sessions assembled to associate with themselves one ordinary justice of the peace and no more, and such stipendiary magistrates and justice, or the majority of them, may in such petty sessions assembled exercise any of the powers hereby vested in the stipendiary magistrates separately.

Provided that no such petty sessions be convened except by the previous sanction of the governor of the colony, which sanction may be given either for holding such sessions periodically, at some times and places to be appointed by him, or for holding the same for any special occasion at any particular time and place.

4. All constables and other officers of police in the said colonies, respectively, shall obey and carry into execution all lawful orders and warrants of the respective stipendiary magistrates, or of any such petty sessions as aforesaid.

*Cap. VI. Respecting the combination of masters and workmen.*

1. The act of the British parliament passed in the sixth year of the reign of George the Fourth, intituled "an act to repeal the laws relative to the combination of workmen, and for other purposes therein mentioned," shall be in force in the said colonies, and applied in the administration of the law therein so far as it may be practicable to apply the same, but the powers thereby vested in the justices of the peace in England shall in the said colonies be vested in the said stipendiary magistrates, and the power thereby vested in any court of general or quarter sessions shall in the said colonies be vested in the said before-mentioned court of petty sessions, and the power thereby vested in Her Majesty's superior courts at Westminster shall in the said colonies respectively be vested in the superior courts of civil and criminal justice thereof; and for the better adaptation of the said act of parliament to the circumstances of the said respective colonies, such analogous forms of proceeding shall be prescribed in manner aforesaid by the governor of each such colony respectively with the sanction of the chief judge of the same.

*Government Notice.*Govt. Notice,  
July 21, 1843.Competition  
Money.

INASMUCH as the custom, still prevalent in this colony, of selling immovable property at public sales in the denominations of a currency long since extinct, and by the aid of a pernicious incentive to gambling, commonly called "competition money," is one which should, as much as possible, be discouraged by the government, in order that it may, the more speedily, be abandoned by the community.

Notice is hereby given, that no property belonging to the colonial government will, hereafter, be sold in any denomination of money, other than those of the British currency for the time being; that such property will be sold at public sales, by the rise only, and not by the rise and fall, and that no "strykgeld," "bonus," or other sort of competition money, will, under any circumstances or pretext whatever, be permitted to be given.

Colonial Office, Cape of Good Hope, 21st July 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*Government Notice.*Govt Notice,  
July 21, 1843.Financial  
Regulations.

IT having been represented to His Excellency the governor, that in many instances the regulations of the government, promulgated from time to time, respecting the collection and expenditure of the public revenue of this colony have been disregarded and deviated from, His Excellency has caused them to be revised, condensed, and embodied into the following regulations, and has directed them to be published for the information and guidance of the officers of the government, and other persons interested therein.

His Excellency, in requiring the particular attention of the public officers to this code of regulations, has directed it to be notified that it will not be in his power to relieve an officer from any surcharge made against him for non-compliance with any of the requisitions herein contained, excepting under the most satisfactory explanation.

Colonial Office, Cape of Good Hope, 24th July 1843.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

*Regulations for the Collection and Expenditure of the  
Colonial Revenue.*<sup>(1)</sup>

## REVENUE.

Art. 1. The officers charged with the collection of the public revenue in Cape Town will continue, as heretofore, to pay the amount of their collections without any deduction whatsoever, daily if possible, or, at all events, on the last day of each week into the hands of the treasurer; and the sub-collectors in the divisions to the respective civil commissioners.

Art. 2. They will continue to make up monthly statements, in duplicate, of their receipts, according to the established form, specifying the nature and sources of the collections, and subjoining the particulars of their weekly payments.

Art. 3. Immediately after the close of each month, the several collectors in Cape Town will transmit the statement referred to in the preceding article, direct to the auditor for his examination and audit, and in the divisions the several sub-collectors unto the respective civil commissioners thereof. These statements for Cape Town are to be vouched as to the charge or debit side by the usual detailed abstracts of the several collectors, and as to the discharge or credit side by the receipts of the treasurer for the sums paid over. The civil commissioners will transmit their general cash accounts, with the supporting sub-vouchers, to the auditor by the *first* post after the *termination of the month*, properly made up and endorsed according to the established form.

Art. 4. The statements and abstracts must be signed in Cape Town by the head of the department in which the revenue is collected, and in the districts by the sub-collectors, and affirmed by the following declaration.

I ( ) do solemnly and sincerely declare, that this is a true and faithful account of all the sums received by me as ( ) between ( ) and ( ) and that I have paid over the whole amount to the colonial treasury (or civil commissioner as the case may be,) on the respective days, and in the proportions of coin specified therein, and I make this solemn declaration conscientiously believing the same to be true.

## EXPENDITURE.

Art. 1. All heads of departments will make out their salary abstracts, according to the usual form, every month, in duplicate, and forward the same on the last day of the month direct to the auditor for his examination and audit.

Art. 2. They will make out their fixed and unfixed contingent abstracts according to the established forms, in duplicate every two months in Cape Town, and quarterly in the country dis-

(1) *Vide infra*, p.



tricts, and transmit them on the last day of each second month, or quarter, direct to the auditor for his examination and audit.

Govt. Notice;  
July 24, 1843.

Financial  
Regulations.

Art. 3. The abstracts must be accompanied in all cases by duplicates of the vouchers at present required by the regulations. In the case of the fixed establishment, by the original authority, with copies thereof, respecting any change in the persons filling the appointments on the establishment, in consequence of promotion or otherwise, which must be attached to the first abstracts in which the alteration appears; and in the case of contingent charges by the estimates and authorities, (with copies,) for incurring the same.

Art. 4. The auditor will examine the several abstracts submitted to him, and all heads of departments will be held responsible for any over-payment, or unauthorised or excessive charges, which may have been inserted in their accounts; and the amount, on being discovered by the auditor general, and approved by his excellency the governor, will be surcharged against them. Upon the auditor's certifying as to the correctness of the abstracts, and their being substantiated by all proper accounts, vouchers and certificates, a warrant will be issued to the treasurer for the payment of the salaries or contingencies as the case may be.

Art. 5. The treasurer will not issue the salary due to an officer against whom a surcharge has been made, until he has paid into his hands the amount of the surcharge.

Art. 6. Whenever any *salary, or other payment*, due to any individual is claimed on his behalf by another person, a sufficient assignment or authority, in writing, must be produced, the accountant being held responsible for any payment made without such *proper authority*.

*"Extraordinary or Contingent Expenditure."*

(This head of "*expenditure*" is to be sub-divided into "*fixed contingent*" and "*unfixed contingent*" charges.)

Art. 7. The "*fixed contingencies*" are such as are contingent in their amount but certain in their nature; and included in the schedule sanctioned by government.

Art. 8. No expense is to be incurred for any fixed contingency which is not included in that schedule, unless authorised by his excellency the governor, in which case the authority for so doing in original, with a copy thereof, must be forwarded to the auditor.

Art. 9. Regular vouchers from the individuals to whom payments are made, referring in every instance, either to the schedule or subsequent authority under which the expense is sanctioned, must be forwarded in support of all fixed contingencies.

Art. 10. "*Unfixed Contingent*" charges are such as are not certain to be incurred, and equally uncertain in their amount.

Govt. Notice.  
July 24, 1813.

Financial  
Regulations.

Art. 11. No charge of this description is to be incurred without his excellency the governor's previous *written* authority (conveyed through the usual channel, viz. the secretary to government,) which is to be accompanied by an estimate of the probable amount to be expended, in all instances where such authority and estimate can be obtained, and copies both of the authority and estimate, together with the originals, will be considered as necessary vouchers in the examination of the accounts by the auditor-general.

Art. 12. No expense whatever will be allowed to be incurred upon *verbal* authority; and whenever any head of department, or other officer of government, may receive from the governor a verbal assent to the commencement of any work or repairs, or to the expenditure, in any way, of the public money, such assent is merely to be considered as an approval of such officer making an official application to him, through the regular channel, for authority, *in writing*, to incur such expenditure.

Art. 13. *Any* item of expense that may be incurred by any head of department, without such *previous written authority*, will be surcharged against him.

Art. 14. The annual appropriation ordinance passed by the legislative council is not to be considered as a *sufficient authority* for any head of department to incur any expense under it, *without* his excellency the governor's sanction in addition thereto.

Art. 15. In any application to be made for incurring any expense, it must be stated whether the same has been provided for in the estimates for the year, and if so, whether any, and how much, of the sum voted for the purpose has already been expended.

Art. 16. Should any expense be authorised during the year which has not been provided for, and which is likely to be of a permanent nature, a supplementary estimate must be submitted to government.

Art. 17. All charges of a contingent nature must be vouched by bills and receipts in triplicate according to the established form, and two witnesses will be required for each payment.

Art. 18. The correctness of the charges must be certified by the heads of the departments; and if the work or supply has been made by contract, it must be stated in the certificate that such contract has been complied with, otherwise it must be certified that the charges are fair and reasonable.

Art. 19. Upon the completion of any work, or the purchase of any articles, an inspection thereof must take place and be reported upon in Cape Town and its vicinity by the civil engineer, and in the country districts by the civil commissioner or magistrate nearest to the spot, assisted by a qualified person. The report thereon must be transmitted with the accounts. In the instance of the erection or repair of public buildings, or

work, such report must specify whether the work has been completed according to the terms of the estimates, and in a proper manner. In the instance of the purchase of stores, a report with regard to the quantity and quality of the articles purchased, and a receipt from the person in whose charge such stores are placed, must form a part of the vouchers.

Govt. Notice,  
July 24, 1843.

Financial  
Regulations.

Art. 20. For all charges for buildings and repairs, authorised upon estimate, regular detailed accounts of the expenses actually incurred, (including a specification of materials, time, and number of laborers employed if it be daywork and particulars of measurement, if it be measured work,) must be invariably produced. The receipt of the party for the gross amount of the estimate not being a sufficient voucher, as it is presumed the actual expense may frequently fall short of that estimated for.

### *Government Notice.*

His excellency the governor is pleased to direct the publication, for general information, of the following order of Her Majesty in council, bearing date the 24th day of February 1843, regulating the trade of Her Majesty's subjects with China and India.

Govt. Notice,  
Aug. 10, 1843.

Trade to  
India and  
China.

Colonial Office, Cape of Good Hope, 10th August 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

*At the court at Buckingham Palace the 24th Feb. 1843.*

WHEREAS by an act, passed in the session of parliament holden in the third and fourth years of the reign of His late Majesty King William the fourth, intituled "an act to regulate the trade to China and India," it was amongst other things enacted, that it should and might be lawful for His Majesty, by any such order or orders, commission or commissions, as to His Majesty in council should appear expedient and salutary, to give to the superintendents in the said act mentioned, or any of them, powers and authorities over and in respect of the trade and commerce of His Majesty's subjects within any part of the dominions of the Emperor of China, and to make and issue directions and regulations touching the said trade and commerce, and for the government of His Majesty's subjects within the said dominions, and to impose penalties, forfeitures, or imprisonments for the breach of any such directions or regulations, to be enforced in such manner as in the said order or orders should be specified :

Now, therefore, Her Majesty in council is pleased, by and with the advice of her privy council, to prohibit, and doth hereby prohibit, her subjects from resorting, for the purposes of trade and commerce, to any other ports in the dominions of the



Gort Notice,  
Aug. 10, 1843.

Trade to  
India and  
China.

Emperor of China than those of Canton, Amoy, Foo-chow-foo, Ningpo, and Shanghai, or than may be in the occupation of Her Majesty's forces; and Her Majesty is pleased to order, that any of her subjects committing a breach or violation of this direction shall, upon conviction thereof in any of Her Majesty's courts of record or vice admiralty, be, for every such offence, liable to a penalty not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, at the discretion of the court before which the conviction shall take place; and Her Majesty is hereby further pleased to order, that all proceedings which may be had under this order shall be, as far as circumstances will permit, in conformity with the law of England.

And the right honourable the Earl of Aberdeen, and the right honourable Lord Stanley, two of Her Majesty's principal secretaries of state: the lords commissioners of Her Majesty's treasury; and the commissioners for executing the office of lord high admiral; are to give the necessary directions herein as to them may respectively appertain.

Wm. L. Bathurst.

### *Government Notice.*

Gort. Notice.  
Aug. 15, 1843.

Meetings  
of Committee  
under  
Ord. 97.

WHEREAS by Ordinance No. 97, bearing date the 14th day of February 1833, entitled, an "Ordinance for enabling certain persons, having respectively the just, lawful, and undisputed right to certain lands and houses, to procure the same to be enregistered as their property in the land register," it is enacted that the governor shall nominate and appoint, from time to time, certain five fit and proper persons, to form, and to be, a committee for the purpose of hearing, investigating, and reporting upon, all claims made under the said Ordinance: And whereas by Ordinance No. 3, bearing date the 25th day of March 1842, it is enacted that the provisions of the said Ordinance No. 97, shall continue in force and effect, until the 31st day of December 1850; And whereas by his excellency's proclamations bearing date, respectively, the 21st day of April 1842, and the 13th day of June 1843, he did nominate and appoint the hon. John Montagu, esq., secretary to government; the hon. Harry Rivers, esq., treasurer general; the hon. Pieter Gerhard Brink, esq., auditor general; the hon. William Porter, esq., attorney general; and Petrus Borchardus Borchers, esq., civil commissioner and resident magistrate for Cape Town and the Cape district,—to form and to be such committee whilst they shall continue to hold such their respective offices.<sup>(1)</sup>

And whereas it is further enacted by the 5th section of the said Ordinance No. 97, that the meetings of the said committee

(1) *Vide supra* p. 207.

shall be holden at such place as the governor shall from time to time appoint, and at such times as the members thereof shall find it convenient and necessary for the despatch of business to appoint,—Notice is hereby given that his excellency the governor has appointed the colonial office as the place in which the meetings of the said committee shall, until further orders, be held; that the days appointed by the committee for holding such meetings will, in future, be publicly notified in the *Government Gazette*; and that at such meetings the proceedings of the said committee will be carried on, and the decisions and orders thereof pronounced and declared, with open doors, as by the said 5th section of the said Ordinance No. 97, is also enacted and required.

Govt. Notice.  
Aug. 15, 1843.

Meetings  
of Committee  
under  
Ord. 97.

Colonial Office, Cape of Good Hope, 15th Aug. 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

### *Government Notice.*

His excellency the governor having learnt that some of the civil servants of this government act as agents for the transaction of business for other persons; and as the public interests may thereby suffer inconvenience and injury, should the business so performed have reference to, or connexion with, the public business of the office or department in which the person so acting as agent is employed; his excellency has directed that it be thus publicly made known, for the information and guidance of the civil servants generally, that if, after the publication of this notice, it shall come to his knowledge that any person belonging to any department of the civil service, shall directly or indirectly engage or act as an agent, or under that or any other denomination, transact any private business which has reference to, or is connected with, the public business of the office or department to which such functionary belongs, his excellency will feel it to be his duty to visit it in a most severe manner.

Govt. Notice.  
Aug. 17, 1843.

Forbidding  
Government  
Servants to  
act as Agents.

His excellency further directs the several heads of departments to make every individual employed under them, fully aware of the purport of this notice, and he requires all heads of departments, upon their personal responsibility, to report to him any departure whatsoever that may come to their knowledge from the spirit and intent of this notice, by any subordinate officer, clerk, or other person attached to their offices or departments respectively.<sup>(1)</sup>

In publishing this instruction, it is to be understood, that it

(1) *Vide infra*, p.p.

Govt. Notice.  
Aug. 17, 1843.

Forbidding  
Government  
Servants to  
act as Agents.

is not intended to interfere with or prevent the private practice of the law officer of the crown and clerks of the peace, or the performance of any act by a public functionary as executor, official assignee, or any such office to which he may have been legally appointed, or the private practice of the medical officers who have not been already specially prohibited.

Colonial Office, Cape of Good Hope, 17th August 1843.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

Council  
Notice.  
Aug. 24, 1843.

Supplying  
Ordinances.

It having come to the knowledge of his excellency the governor, that the ordinances of this government have not, of late years, been regularly supplied to the respective public departments and officers to whom it was formerly customary to forward them; and his excellency deeming it of importance that the several files should be completed with as little delay as possible: I have received the governor's commands to request all such departments and officers to report to me what numbers are still deficient in their respective files; notifying at the same time whether they have been furnished with copies of Mr. Harding's compilation of the proclamations and ordinances up to the year 1839.

Chamber of the Legislative Council, 24th August 1843.

(Signed)

J. Moore Craig,  
Acting Clerk to the Legislative Council.

### *Government Notice.*

Govt. Notice.  
Aug. 30, 1843.

Transfer  
Dues.

SEVERAL cases of sales, or exchanges, of landed property in which the parties have endeavoured to defraud the colonial revenue, by stating a nominal and not the real value upon which transfer dues were legally payable, having been reported to the governor,—his excellency has ascertained, in the course of the inquiry instituted into two recent occurrences of this nature, that not only was the amount so stated far below the real value of the property, but that the local authority having refused to receive the dues upon such nominal value, the parties, one in person, and the other in one instance by an agent, and in another personally, proceeded to the office of the collector of transfer dues, in Cape Town, and there making oath to the purchase and sale of the lands at the fictitious valuation thus put upon them, paid the transfer dues thereon, reduced accordingly.

His excellency, with a view to prevent a repetition of such a practice, and in order that the consequences of it may be fully



known, has directed these particulars to be published, having in the two cases referred to further directed civil proceedings to be immediately instituted for the recovery of the full transfer dues, and the penalties to which the parties have rendered themselves liable. Indictments for perjury and fraud will also be preferred against the offenders.

Govt. Notice.  
Aug. 30, 1843.

Transfer  
Dues.

And as his excellency is of opinion, that he cannot too strongly condemn the detestable and demoralising practice which has obtained of one party making oath, as an agent by power of attorney, to the sale price of property of which the agent is not individually cognizant, his excellency hereby expressly forbids all magistrates, justices of the peace, and collectors of revenue authorized to administer oaths, to swear any such agent to the truth of any affidavit which such agent may tender in respect of the sale price of any such property; and in future no affidavit is to be accepted, except one made in the terms of the proclamation of the 2d day of January, 1818, that is to say,—by the buyer and the seller.

It is, however, to be understood, that agents who, in their capacity as such, are the actual buyers or sellers of property, do not come within the scope and meaning of this notice.

Colonial Office, Cape of Good Hope, 30th August 1843.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

### Government Notice.

HIS Excellency the Governor has been pleased to direct, in reference to the act of the imperial parliament, 5th and 6th William the Fourth, Cap. 19, entitled, "*An act to amend and consolidate the laws relating to the merchant seamen of the united kingdom, and for forming and maintaining a register of all the men engaged in that service,*" and which was published in the "Government Gazette" of the 19th February 1836, that all shipping cases included in sections 10, 11, 12, 13, 14, 15, 40 and 46 of the said act, shall be heard and adjudicated upon by the resident magistrate of Cape Town, and all those included in sections 6, 7, 37 and 38 of the said act, shall be heard and adjudicated upon at the office of the superintendent of police, and those in the 41st, 42nd, 43d and 44th sections, by both or either of them, the said resident magistrate and superintendent of police.

Govt. Notice.  
Aug. 31, 1843.

Act 5 and 6,  
William IV.  
relating to  
Merchant  
Seamen.

His excellency has also been pleased to constitute and appoint the said resident magistrate and superintendent of police, respectively, to be the functionaries authorised in his excellency's behalf, under the 41st and 42nd sections of the said act.

Govt. Notice.  
Aug. 31, 1843.

Act 5 and 6.  
William IV.  
relating to  
Merchant  
Seamen.

In order to prevent inconvenience and detention to the shipping resorting to Table Bay, his excellency has directed the offices of the resident magistrate and superintendent of police to be opened daily (Sundays excepted) from 9 to 11 o'clock A.M. for the disposal, during those hours, of shipping cases, in preference to any other business, and to continue hearing from 11 to 4 o'clock any such cases which were in waiting and in readiness to be heard before 11 o'clock, but which could not be brought on before that hour. Ordinary cases of that class brought to either of the officers after 11 o'clock, need not be entered upon until 9 o'clock of the following morning, unless it shall be shown that such postponement would occasion the detention of a vessel, or unless their importance and urgency are of such a nature as, in the opinion of the magistrate or superintendent, to require an earlier hearing.

His excellency has been further pleased to direct, that these arrangements shall be made known to every master of a vessel arriving in Table Bay, by the delivery to him of a copy of this notice, with a copy of the port instructions, and that a number of copies of the act of parliament above referred to, shall be deposited in the offices of the port captain, resident magistrate, and superintendent of police in Cape Town, respectively, with a copy of this notice attached thereto, to enable any person interested therein, to refer to them when required.

All the sections of the act of parliament which have been specially referred to in this notice, will be found hereunder.

Colonial Office, Cape of Good Hope, 31st Aug. 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

6. And be it further enacted, that in case a seaman shall at any time, after having signed an agreement as herein-before mentioned, neglect or refuse to join the ship on board of which he shall have engaged to serve, or shall refuse to proceed to sea in her, or shall absent himself therefrom without leave, it shall be lawful for any justice of the peace in any of his majesty's dominions at home or abroad near to the place where such ship shall happen to be, upon complaint of the fact made upon oath by the master, mate, or owner thereof, and such justice is hereby required, by his warrant, to cause such seaman to be apprehended and brought before him; and in case such seaman shall not give a reason to the satisfaction of such justice for his neglect, refusal, or absence, as the case may be, upon due proof of such neglect, refusal or absence, it shall be lawful for any such

justice to commit such seaman to the house of correction, there to be kept to hard labour for a period not exceeding thirty days : provided always, that in case such seaman, on being apprehended and brought before the said justice, shall consent to join the ship and proceed on the voyage for which he shall have agreed, it shall be lawful for the said justice, at the request of the master, instead of committing such seaman, to cause him to be conveyed on board the said ship, or to be delivered to the master for the purpose of proceeding on the voyage, and also to award to the master such costs incurred in the apprehension of the seaman as to such justice shall seem reasonable, not exceeding in any case the sum of forty shillings, which shall be chargeable against, and may be abated from, the wages to grow due to such seaman.

7. And be it further enacted, that if any seaman, after having signed such agreement as aforesaid, or after the ship on board which he shall have agreed to serve, shall have left her first port of clearance, and before the period for which he shall have agreed to serve shall be completed, shall wilfully and without leave absent himself from the ship, or otherwise from his duty, he shall (in all cases not of absolute desertion, or not treated as such by the master,) forfeit out of his wages to the master or owner of such ship the amount of two days' pay for every twenty-four hours of such absence, and in a like proportion for any less period of time, or, at the option of the said master, the amount of such expenses as shall have been necessarily incurred in hiring a substitute to perform his work ; and in case any seaman, while he shall belong to the ship, shall, without sufficient cause, neglect to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship, he shall be subject to a like forfeiture in respect of every such offence, and of every twenty four hours continuance thereof ; and in case any such seaman, after having signed such agreement, or after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge or leave from the master thereof, he shall forfeit to the master or owner one month's pay out of his wages : provided always, that no such forfeitures shall be incurred, unless the fact of the seaman's temporary absence, neglect of duty, or quitting the ship, shall be duly entered or recorded in the ship's log book, which entry shall specify truly the hour of the day at which the same shall have occurred, and the period during which the seaman was absent or neglected his duty, the truth of which entry it shall be incumbent on the owner or master in all cases of dispute to substantiate by the evidence of the mate, or some other credible witness.

10. And be it further enacted, that if any person shall, either on shipboard or on shore, harbour or secrete a seaman who shall have signed an agreement to proceed on a voyage to parts

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beyond the seas, and shall have deserted or absented himself without leave from his ship, knowing or having reason to believe him to be a deserter or to be absent without leave, every person so offending shall for every such seaman so harboured or secreted, forfeit and pay the sum of ten pounds; and that no debt exceeding in amount five shillings, incurred by any seaman after he shall have signed any such agreement as aforesaid, shall be recoverable until the voyage agreed for shall have been concluded; nor shall it be lawful for any keeper of a public house or of a lodging house for seamen to withhold or detain any chest, bed or bedding, clothes, tools, or other effects of any seaman, for any pretended debt alleged to have been contracted by any such seaman; and in case any such chest, bed, bedding, clothes, tools or other effects as aforesaid shall be withheld or detained contrary to this act, it shall be lawful for any justice of the peace in any part of His Majesty's dominions, upon complaint upon oath to be made by any such seaman or on his behalf, to enquire into the matter, and if he shall see right by warrant under his hand and seal to cause any such property or effects so withheld or detained contrary to this act, to be seized and delivered over to the seaman.

11. And be it further enacted, that the master or owner of every ship shall, and he is hereby required to pay to every seaman entering into such contract as aforesaid, his wages, if the same shall be demanded within the respective periods following; (that is to say,) if the ship shall be employed in trading coastwise, the wages shall be paid within two days after the termination of the agreement, or at the time when any such seaman shall be discharged, whichever shall first happen; and if the ship shall be employed in trading otherwise than coastwise, then the wages shall be paid at the latest within three days after the cargo shall have been delivered, or within ten days after the seaman's discharge, whichever shall first happen; in either of which last-mentioned cases of payment being delayed, the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the estimated balance due to him, and in case any master or owner shall neglect or refuse to make payment in manner aforesaid, he shall, for every such neglect or refusal, forfeit and pay to the seaman the amount of two days' pay for each day not exceeding ten days during which payment shall, without sufficient cause, be delayed beyond the period at which such wages or part wages are hereby required to be paid as aforesaid; for the recovery of which forfeiture the seaman shall have the same remedies as he is by law entitled to for the recovery of his wages: provided always, that nothing in this clause contained shall extend to the cases of ships employed in the southern whale fishery, or on voyages for which seamen by the terms of their agreement are compensated by shares in the profits of the adventure.

12. And be it enacted and declared, that every such payment of wages to a seaman shall be valid and effectual in law notwithstanding any bill of sale or assignment which may have been made by any such seamen of such wages, or of any attachment or incumbrance thereon; and that no assignment or sale of wages made prior to the earning thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages, shall be valid or binding upon the party making the same.

13. And be it further enacted, that upon the discharge of a seaman from the ship in which he shall have served he shall be entitled to receive from the master a certificate of his service and discharge, specifying the period of service and the time and place of the discharge of such seaman, which certificate shall be signed by the master; and if any master shall refuse to give such certificate to any such seaman, without having reasonable cause for his refusal, he shall for every such offence forfeit and pay to him the sum of five pounds.

14. And be it further enacted, that if after a seaman shall have been discharged from any ship or vessel three days he shall be desirous of proceeding to sea on another voyage, and in order thereto shall require immediate payment of the wages due to him, it shall be lawful for any justice of the peace in any part of His Majesty's dominions, on application from such seaman, and on satisfactory proof that he would be prevented from employment by delay, to summon the master or owner of such ship or vessel before him, and to require cause to be shown why immediate payment of such wages should not be made; and if it shall appear to the satisfaction of such justice that there is no reasonable cause for delay, he shall order payment to be made forthwith, and in default of compliance with such order such master or owner shall forfeit and pay the sum of five pounds.

15. And whereas seamen, in cases of dispute, may be exposed to great inconvenience, expense, and delay in obtaining payment of their wages; for remedy thereof be it enacted, that in all cases of wages not exceeding twenty pounds which shall be due and payable to a seaman for his service in any ship as aforesaid, it shall be lawful for any justice of the peace in any part of His Majesty's dominions residing near to the place where the ship shall have ended her voyage, cleared at the custom house, or discharged her cargo, or near to the place where the master or owner upon whom respectively the claim is made shall be or reside, upon complaint on oath to be made to such justice by any such seaman or on his behalf, to summon such master or owner to appear before him to answer such complaint, and upon the appearance of such master or owner, or in default thereof, on due proof of his having been so summoned, such justice is hereby empowered to examine upon the oath of the parties and their respective witnesses (if there be any) touching the complaint and the amount of wages due, and to make such order for payment

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thereof as shall to such justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof, it shall be lawful for such justice to issue his warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattles of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the charges and expences incurred by the seaman in the making and hearing of the complaint, as well as those incurred by the distress and levy and in the enforcement of the justice's order; and in case sufficient distress cannot be found, it shall be lawful for the said justice to cause the amount of the said wages and expences to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justice, then he is hereby empowered to cause the party upon whom the order for payment shall be made to be apprehended and committed to the common gaol of the country, there to remain without bail until payment shall be made of the amount of the wages so awarded, and of all costs and expences attending the recovery thereof; and the award and decision of such justice as aforesaid shall be final and conclusive as well on every such seaman as on the owner and master of the ship.

37. And be it further enacted, that any two or more justices of the peace residing at or near to any port at which any ship, as aforesaid, having on board thereof any sea apprentice, shall at any time arrive, shall have full power and authority to enquire into and examine, hear and determine, all claims of apprentices upon their masters under their indentures, and all complaints of hard or ill usage exercised by the respective masters towards any such their apprentices, or of misbehaviour on the part of any such apprentice, and to make such orders therein as they are empowered by law to do in other cases between masters and apprentices.

38. And whereas by an act passed in the ninth year of the reign of His late Majesty King George the Fourth, for consolidating and amending the statutes in England relative to offences against the person, a summary jurisdiction is provided for the punishment of persons guilty of common assaults and batteries: And whereas it is expedient that the provisions of the said act should be extended to similar offences committed on board any merchant ship belonging to any subject of the united kingdom, in any place at sea, or out of His Majesty's dominions, it shall be lawful for any two justices of the peace in any part of His Majesty's dominions, upon complaint of the party aggrieved, to hear and determine any such complaint, and to proceed and make such adjudication thereon as by the said act any two justices are empowered to do, subject however



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to such provisoes and limitations as are contained in the said act with respect to the cases of assault and battery therein mentioned : and the fine or forfeiture to be imposed in any such case shall be payable to the merchant seamen's hospital or institution at or nearest to the port or place where such adjudication shall be made.

40. And whereas great mischiefs have arisen from masters of merchant ships leaving seamen in foreign parts, who have been thus reduced to distress, and thereby tempted to become pirates, or otherwise misconduct themselves, and it is expedient to amend and enlarge the law in this behalf : be it therefore further enacted, that if any master of a ship belonging to any subject of the united kingdom shall force on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea, in any place in or out of His Majesty's dominions, any person belonging to his crew, before the return to or arrival of such ship in the united kingdom, or before the completion of the voyage or voyages for which such person shall have been engaged, whether such person shall have formed part of the original crew or not, every person so offending shall be deemed guilty of a misdemeanor, and shall suffer such punishment by fine or imprisonment, or both, as to the court before which he shall be convicted shall seem meet ; and the said offence may be prosecuted by information at the suit of the attorney general on behalf of His Majesty, or by indictment or other proceeding in any court having criminal jurisdiction in His Majesty's dominions at home or abroad, where such master or other person as aforesaid shall happen to be, although the place where the offence may be therein averred to have been committed (which averment is hereby required to be substantially according to the fact) shall appear to be out of the ordinary local jurisdiction of such court ; and such court is hereby authorized to issue a commission or commissions for the examination of any witnesses who may be absent or out of the jurisdiction of the court ; and at the trial the depositions taken under such commission or commissions, if such witnesses shall be then absent, shall be received in evidence.

41. And be it further enacted, that no such master shall discharge any individual person of his crew, whether *British* subject or foreigner, at any of His Majesty's colonies or plantations, without the previous sanction in writing of the governor, lieutenant governor, secretary, or other officer appointed in that behalf by the government there, or in the absence of all such authorities at or near to the port or place at which the ship shall then be lying, then of the chief officer of customs of such colony or plantation resident at or near to such port or place ; nor shall he discharge any such person at any other place abroad without the like previous sanction in writing of His Majesty's minister, consul, or vice-consul there, or in the absence of any such functionary, then of two respectable merchants resident there ; all

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which said functionaries respectively are hereby authorized and required, and all which said merchants are hereby authorized, in a summary way to inquire into the grounds of any such proposed discharge by examination on oath, and thereupon to grant or refuse such sanction according to their discretion, having regard to the objects of this act.

42. And be it further enacted, that no such master shall be at liberty to leave behind at any place abroad, either on shore or at sea, any person of his crew as aforesaid, on the plea of such person not being in a condition to proceed on the voyage; or having deserted from the ship, or otherwise disappeared, unless upon a previous certificate in writing of one of such functionaries or merchants as aforesaid, if there be any such at or within a reasonable distance from the place where the ship shall then be, if there be time to procure the same, certifying that such person is not in such condition, or has deserted or disappeared, and cannot be brought back; and all such functionaries as aforesaid are hereby authorised and required, on the application of any such master, to inquire by examination on oath into the circumstances, and to give or refuse such certificate according to the result of such examination.

43. And be it further enacted, that if any such master shall leave behind any one of his crew as aforesaid contrary to this act, in any indictment or proceeding the proof of his having obtained such sanction or certificate as aforesaid shall be upon him, it being the intention hereof that except in the case of entering into His Majesty's naval service, no person of the crew shall be discharged, either with or without his consent, in any place abroad where such functionary can be found, unless he shall have given such sanction thereto.

44. And be it further enacted, that every such master who shall leave any person of his crew as aforesaid on shore at any place abroad, under a certificate of his not being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such, to any two respectable merchants there, or if there be but one, then to such one merchant, a just and true account of the wages due to such person, and pay the same to the seaman, either in money or by bill drawn upon the owner of his ship; and if by bill, then such functionary or merchant, according to the case, is hereby authorized and required by certificate endorsed on such bill to testify that the same is drawn according to this act for money due on account of wages of a seaman, or to that effect; and any such master who shall deliver a false account, or refuse or neglect to deliver a just and true account of the wages due to such person, and to pay the amount thereof in money or by bill as aforesaid, shall for every such offence forfeit and pay, in addition to the wages due, the penal sum of twenty-five pounds.

46. And be it further enacted, that when any seaman shall

quit a merchant ship in order to enter into His Majesty's naval service, and shall thereupon be actually received in such service, not having previously committed any act amounting to and treated by the master as a total desertion, he shall be entitled immediately upon such entry to the delivery up of all his clothes and effects on board such merchant ship, and (in case the ship shall have earned freight) to receive from the master the payment of the proportionate amount of his wages up to the period of such entry, either in money or by bill on the owner thereof; all which clothes, effects, money, and bill such master is hereby required to deliver up to him accordingly, under a penalty of twenty-five pounds for any refusal or neglect, to be recovered, with full costs of suits, by such seaman: provided always, that if no freight shall have been earned at the time of such entry, then the master shall and he is hereby required to give the seaman so entering, a bill upon the owner for his wages to the period of such entry, payable on the ship's safe arrival at her destined port; but in case the master shall have no means of ascertaining the balance justly due, he shall make out and deliver to such seaman a certificate of the period of his services and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of His Majesty's ship the agreement entered into with the seaman for the voyage; and every master, upon the delivery up of his clothes and effects and the settlement of such wages in manner herein mentioned, shall be entitled to receive from the officer in command of the ship of His Majesty into which such seaman shall have entered a certificate signed by the officer, which such officer is hereby required to give upon the request of the master, testifying that such seaman has entered into such ship of His Majesty to serve, as proof that the master had not parted with the seaman contrary to the provisions of this act.

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### *Government Notice.*

His Excellency the Governor has directed the publication, for general information, of the following extract from the minutes of the proceedings of the Mixed British and Portuguese Commission established in this colony, under the treaty between Great Britain and Portugal for the suppression of the slave trade.

Govt. Notice,  
Aug. 30, 1843.

Regulations  
for the  
British and  
Portuguese  
Commission.

Colonial Office, Cape of Good Hope, 30th August 1843.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.



Gort. Notice,  
Aug 30, 1843.

Regulations  
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Commission.

Extract from the minutes of the proceedings of the Mixed British and Portuguese Commission established at the Cape of Good Hope, under the treaty between Great Britain and Portugal of the 3d July 1842, for the suppression of the traffic in slaves.

*August 17th, 1843.*

Before George Frere, Esq., Junior, }  
And Frederick R. Surtees, Esq., } Commissioners.

Ordered,—That the following regulations be adopted, and entered upon the minutes by the registrar.

(Signed) James R. Macleay,  
Registrar.

## REGULATIONS

For conducting the business of the Mixed British and Portuguese Commission established at the Cape of Good Hope under the treaty of the 3d July 1842, between Great Britain and Portugal, for the suppression of traffic in slaves.

### § 1.

1. The mixed commission will sit regularly at short intervals, by adjournment from day to day.

2. One of the commissioners will be daily at certain hours accessible in chambers, that he may be consulted by the registrar on any incidental matter, or for the purpose of taking the preliminary affidavit of officers arriving in charge of captured vessels, and making arrangements for landing negroes, ordering the landing and sale of perishable cargo, receiving applications for the appointment of a day for the court to sit, or doing any other act, which the emergency of a case may render requisite to be done.

3. It will be endeavoured, however, to avoid as much as possible the performance of even the most ordinary duties by one commissioner alone.

4. Before the rising of the mixed commission the commissioners will adjourn the same to a day to be by them fixed at their discretion, and proclamation thereof will be made by the marshal or officer of the mixed commission.

5. The commissioners may, however, subsequently appoint any intermediate day or days for expediting any particular case, but 48 hours' notice of such intermediate days must be given to all parties concerned, and be published in the *Gazette*, or one of the public newspapers of the colony, by the registrar; and care will be taken that on such intermediate days, nothing is done to the manifest injury of any absent party, when it shall appear that he cannot have received sufficient notice of the sitting of the mixed commission.

## § II.

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1. The arbitrator elected by lot will sit with the commissioners in chambers, to consult with them on any point on which the commissioners may differ in opinion.

2. The following will be the mode of drawing lots; at the sitting of the court, when the commissioners announce that they have not agreed upon the sentence, or upon any point which they may have reserved for discussion in chambers, two slips of paper will be provided of equal size; the name of the British arbitrator will be written on one slip, and the name of the Portuguese arbitrator on the other; both slips will then be folded in the same shape, and concealed in a box or other convenient receptacle, and the registrar will then draw one of them out, and the lot will be held to have fallen on the arbitrator whose name is thus first produced.

3. The arbitrators will also, in the absence of their respective colleagues, hold themselves in readiness to act as commissioners, when called upon to do so by notice from the registrar.

## § III. Registrar.

1. The person appointed to execute the office of registrar will be sworn faithfully to perform his duty.

2. The registry of the court will be open, and the registrar will be in attendance there, at convenient hours in the day throughout the year,—the sabbath and public holidays excepted,—and, in cases affecting the personal comfort and well-being of negroes, or other persons detained, he will attend if required on those days also.

3. The registrar will examine the papers and certificates brought in by captors or officers in charge of detained vessels, to see that they are properly arranged, and that the affidavits required by the treaty are ready to be sworn before the commissioners.

4. He will attend all the sittings of the mixed commission, and also before the commissioners in chambers.

5. He will make minutes of all the proceedings of the mixed commission, and enter the same in a book to be kept for the purpose, which will form the “record of the proceedings of the mixed commission.”

6. He will take the custody of all papers, declarations, certificates, affidavits, depositions, and other documents brought into the mixed commission, and record the receipt thereof in the book.

7. He will write down the depositions of all witnesses examined before the commissioners.

8. He will administer the necessary oaths to the witnesses, the interpreter, and translator, and to parties making affidavits before the commissioners.

9. He is to select an interpreter when required, and to pro-

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cure translations of such documents in foreign languages, brought before the mixed commission, as may be required by the commissioners, or the captors or claimant, or their respective counsel.

10. He will procure to be made, and will attest, copies of all records, documents, and papers, that may be required and allowed by the commissioners.

11. He will pay the charges made by the interpreter, the translator, and the copyist, after those charges have been examined and sanctioned by the commissioners, and charge the same to the proper account.

12. He will draw all bail bonds, and be present at, and attest the execution thereof, before the commissioners.

13. He will prepare, sign and seal all warrants, commissions, and instruments issuing under the seal of the mixed commission.

14. He will have the custody of all monies paid into the mixed commission, and hold them at the disposal of the mixed commission.

15. He is prohibited from acting as counsel in any suit, matter, or proceeding before the mixed commission.

#### § IV. *Marshal.*

1. The person appointed to execute the office of marshal will be sworn faithfully to perform his duties.

2. The marshal will attend the sittings of the mixed commission, and also when required before the commissioners in chambers.

3. He will, by himself or deputy, (leave of the commissioners in that respect being first had and obtained), execute all such warrants, decrees, monitions, and other instruments as shall be issued by the mixed commission, and directed to him, and make due returns thereof.

4. He will enquire and report as to the sufficiency of persons proposed as sureties.

5. He will be remunerated by fees on the scale fixed for similar services in the court of vice admiralty of the colony.

#### § V. *Proctors and counsel.*

1. Any barrister or advocate, and every attorney and proctor entitled to practise respectively as such in the supreme court, or the court of vice admiralty, in the colony, will be competent to be admitted as practitioners before the mixed commission.

2. The proctors and counsel will attend the sittings of the mixed commission, and also, if required by notice from the registrar, before the commissioner in chambers.

3. They will be remunerated for their services according to the scale of fees fixed for similar services in the vice admiralty court of the colony.

#### § VI. *Preliminary proceedings.*

1. The captor's declaration, and papers, if any, of a detained



vessel, should be brought to the registrar by the captor, or officer in charge of the vessel, or his proctor, as soon as possible.

2. The registrar will provide a form of affidavit, and will see that it is properly filled up, and that the captor's declaration is annexed to the ship's papers, which are brought in as found on board at the time of capture.

3. He will also see that if any papers have been discovered or given up subsequent to the capture, the circumstances are duly stated in the affidavit; and that the papers are annexed in proper order; and that if any of the crew, passengers, slaves, or cargo have been removed from the detained vessel, the certificate stating the reasons of such removal, required by the treaty, are with the papers, and that the circumstances are properly stated in the affidavit.

4. The registrar will then bring the captor, or officer in charge, and the papers before both or either of the commissioners who may be in attendance in the chambers, and the affidavit having been sworn to, a day will be fixed for the mixed commission to sit, and to receive the papers, and proceed with the case.

5. The commissioners will take the necessary measures that the slaves on board may be landed immediately, and receive all proper care and attention, until the case is decided, when they will be placed at the disposal of the colonial authorities.

6. It will be the duty of the captor, and, in his absence of the officer in charge of a vessel detained, to keep in safe custody all persons who may be found in the vessel at the time of capture, and hold them at the disposal of the mixed commission.

#### § VII. *Motion for monition.*

The mixed commission having received the papers, the captor or officer in charge, or his counsel, will then move the court to issue its monition,—the commissioners will then examine the ship's papers and the captor's declaration, and will, if necessary, examine the captor or officer in charge, as the case may be, as to the due fulfilment of all the formalities required by treaty, at the time of capture.

#### § VIII. *Refusal of monition.*

1. Should there appear to be no grounds for supposing that the capture has been legally made under the treaty, the mixed commission will refuse to issue the monition, and the case will thus be stopped *in limine*.

2. The papers will then be immediately returned to the officer in charge, with a certified copy of the minute of the decree of the mixed commission thereupon.

#### § IX. *Granting and service of monition.*

1. If there be grounds for supposing that the capture has been legally made under the treaty, the mixed commission will decree the monition.

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2. The monition will be prepared by the registrar, and delivered to the marshal of the court, or other person to whom the same is addressed, and such person is then to execute the same, by affixing the original to the place mentioned therein for a certain time, and leaving a copy duly collated when he removes the original.

3. A certificate of the service will then be endorsed on the original monition, and signed by the person executing it.

4. The registrar in preparing the monition will make it returnable on a given day and hour, which means that the instrument itself should be brought back into court, together with the certificate of its having been served as directed.

5. The day to be fixed for its return will in all ordinary cases be the seventh day after service, but if from the distance of the port where the ship lies, or any other sufficient reason, the mixed commission may think the time too short, then on such further day as to the commissioners may seem meet.

6. The registrar will record the return of the monition

#### § X. *Arrest of vessel and cargo.*

The mixed commission, upon the return of the monition, or upon motion, or order of the commissioners, will issue a warrant to the marshal to take the vessel and her cargo and the slaves, if not already landed, into his charge, and the marshal will certify his having done so.

#### § XI. *Examination of witnesses.*

1. The mixed commission will next proceed to examine the witnesses produced on behalf of the captor, first causing the registrar to administer to them an oath, according to the prescribed form, or in case of heathens in such other form as may be considered binding, and then putting to each of them such of the standing interrogatories as to the commissioners may seem expedient, the answers to which will be taken down in writing by the registrar.

2. If an interpreter is required, he must be sworn, unless he be a notary public.

3. After the evidence of each witness has been taken down, it will be read over to him, to ascertain if he has understood the questions put to him.

4. If a witness duly summoned, refuses to attend, or if he does attend and refuse to answer the interrogatories put to him, the mixed commission will decree a warrant of attachment to issue, desiring the marshal to arrest and keep him in custody, until he obeys the order of the mixed commission.

5. Any person who has been or is to be examined as a witness, may be required to withdraw during the examination of the other witnesses, when such exception is considered necessary for the preservation of the purity of the evidence to be given, and for the prevention of false testimony.

### § XII. *Publication of evidence.*

1. When the evidence of all the witnesses to be examined on both sides has been reduced into writing, and when a *claim* has been presented, or the time within which it must be presented has expired, but not before, the commissioners will order publication, that is, that the evidence may be inspected, and copies procured from the registrar by the parties interested in the case.

2. But before publication the evidence must not be shown, nor copies or extracts of the same given, nor the purport of it otherwise made known, and after publication of evidence, no claim can be admitted except as regulated by § XIV.

### § XIII. *Undefended cases.*

Before publication of evidence, the commissioners will enquire whether any claim is made for the vessel, and if no claim be made within the proper time fixed for the return of the monition, the mixed commission will adjourn, in order that the commissioners may consider the case, and prepare their sentence.

### § XIV. *Claim.*

1. If a claim is made for the vessel, or the slaves or cargo therein, it must be supported by affidavit, and the commissioners will examine such witnesses as the claimant may produce in support of his case, in the same manner as that pointed out in regard to the witnesses produced by the captor. The interrogatories for this purposes are to be framed by the claimant or his counsel, and must be submitted to the commissioners for their approval.

2. Any claim as to a detained vessel, or the cargo, or slaves on board, must be made within the time fixed for the return of the monition, unless upon special leave granted by the commissioners upon affidavits, proving to their satisfaction, that the same could not have been sooner preferred; but upon such terms as to the payment of expenses or otherwise, as the commissioners may see cause to order.

### § XV. *Further evidence.*

If application for further evidence be made by either party in a case, and granted by the commissioners, or if the commissioners require further evidence, the registrar will record the fact, and the parties requiring the additional evidence will frame the necessary interrogatories, and submit them to the commissioners, and when they are approved and the witnesses summoned, the mixed commission will sit, and the examination will be conducted in the mode already prescribed.

### § XVI. *Commission for survey and inspection.*

1. If in any case information be required regarding the equipment or cargo of the vessel, or any peculiarities in her construction, concerning which the evidence given by the witnesses is

Govt. Notice,  
Aug. 30, 1844.

Regulations  
for the  
British and  
Portuguese  
Commission.



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Portuguese  
Commission.

unsatisfactory or directly conflicting, the mixed commission will issue a commission for the survey and inspection of the vessel.

2. This commission will be directed to four persons, two named by the captor and two by the claimant. The persons selected should be respectable merchants, or others acquainted with merchant shipping.

3. In case the mixed commission requires the survey for its own satisfaction, it will direct the commission to the marshal, and such other person as may be best fitted for ascertaining the object of the enquiry.

§ XVII. *Security when additional delay is required.*

If either party, captor or claimant, requires delay beyond the period of two months fixed by the treaty for the final settlement of the case, he must give security, to the satisfaction of the mixed commission, for the expense and risk of such additional delay.

§ XVIII. *Perishable cargo to be landed.*

1. If at any time after the proceedings are commenced it should appear to the commissioners, upon the application of a party or otherwise, that the cargo or any part of it is perishable, and likely to deteriorate if left on board, they will order the whole or part to be landed and sold by auction.

2. The order will be given in the form of a commission of sale, and the parties to whom it is addressed will be sworn to execute it faithfully.

3. The proceeds of such sale are to be paid into the registry of the mixed commission, to await the final decision of the case.

§ XIX. *Difference of opinion between the commissioners.*

If the commissioners do not agree on their sentence, a minute of the fact will be entered in the book, and read at the sitting of the mixed commission at which the sentence would otherwise have been pronounced. The mixed commission will then proceed to draw lots for an arbitrator, who will consult with the commissioners; and the sentence will be pronounced in conformity with the opinion of the majority of the three.

§ XX. *Sentence.*

When the commissioners, or the commissioners and an arbitrator, if the latter has been called in, have decided upon the sentence, the decision will be announced at a sitting of the mixed commission, by the senior commissioner present, and a minute of the sentence will be recorded by the registrar.

§ XXI. *Restoration of vessel.*

When the mixed commission decrees a vessel to be restored, the marshal will be ordered to give up the vessel and her cargo to the claimant, or to any person duly appointed to receive her on behalf of the claimant, on their producing a copy of the sentence of the mixed commission, duly certified by the registrar under the seal of the court.

§ XXII. *Claim for costs.*

1. When the mixed commission decrees a vessel to be restored, with costs, damages and expenses, the registrar will receive from the claimant the account of the costs claimed, and will examine and report upon the same.

2. The registrar may, if necessary, take to his assistance one or two merchants of known respectability.

3. Either party may object to the registrar's report, (the objections to be made in writing,) and the mixed commission may order it to be amended before confirming it.

§ XXIII. *Liberated negroes to be registered.*

When the mixed commission has decreed a vessel to be condemned, the registrar will cause a list to be made of all the survivors of the slaves on board, and will prepare for each individual a certificate of freedom, to be signed by the commissioners as mentioned in article 6th of annex B. to the treaty. The expence of making out this list is to be paid out of the proceeds of the vessel in which the negroes were taken.

§ XXIV. *Disposal of condemned vessel.*

1. After sentence of condemnation, the mixed commission will cause the vessel to be measured by the proper officer of Her Majesty's customs, and to be appraised.

2. This being done the commissioners will address a letter to the principal British naval authority on the station, informing him that according to article 11 of the treaty, the vessel condemned may be purchased into Her Majesty's service, and asking whether he wishes to purchase her for that purpose, at the price named by the appraiser.

3. This letter will mention any information which the commissioners may have procured as to the size and value of the vessel, and any other particulars which may have been obtained as to her good and bad qualities.

4. If the British naval authority declines to purchase the vessel the commissioners will offer her in a similar manner to a Portuguese naval authority, if there be one at hand.

5. If the vessel is purchased by the British or Portuguese government, such parts of her tackle, apparel, and furniture as may to the purchaser appear desirable will be sold with her, and the remainder, with the cargo, stores, and other articles found on board, will be sold by public auction.

6. If the Portuguese naval authority declines the offer, or if there be no such authority at hand, the mixed commission will order the vessel to be broken up and sold in separate parts by public auction, together with the tackle, apparel and furniture, and the cargo, stores, and other articles found on board.

7. This order will be given in the form of a commission of sale.

By Order of the Mixed Commission,

(Signed) James R. Macleay, Registrar.

Govt. Notice,  
Aug. 30, 1843.

Regulations  
for the  
British and  
Portuguese  
Commission.

Govt Notice,  
Sept. 7, 1843.

Crown Lands,  
Conditions  
&c. for their  
disposal.

### *Government Notice.*

IN accordance with instructions received from the right honorable the secretary of state, his excellency the governor has prepared and directed the publication, for general information, of the following conditions and regulations upon which unappropriated crown land in this colony will, in future, be disposed of.

His excellency has also directed separate copies of this notice, and the regulations, in the English and Dutch languages, to be transmitted, through the several civil commissioners, to the field-cornets of their respective divisions, who, on their parts, are hereby required, and strictly enjoined, to distribute the copies as extensively as possible amongst the inhabitants of their respective wards, in order that the said regulations may be fully known.

Colonial Office, Cape of Good Hope, 7th September 1843.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### *Conditions and Regulations upon which the crown lands at the Cape of Good Hope will be disposed of.*

1. The unappropriated crown lands in this colony will be sold in freehold, and by public auction only, at least for the present, and until Her Majesty's government shall see fit to make alteration in this-respect.

2. Unless it is otherwise notified, the upset price for such sales will be two shillings (2s) per acre, (one acre is about half a morgen), but the governor for the time being will have the power to fix such higher upset price as the locality, or other circumstances, may render expedient, of which due notice will always be publicly given.

3. Persons desirous of becoming purchasers will apply, in writing, to the secretary to government respecting the land they wish to have put up for sale; stating in what division it is situated, and as far as practicable, its position, boundaries, and probable extent.

These applications, after being recorded in the colonial office, will be transmitted to the surveyor general, who if he see no objection to the land being disposed of, will call upon the applicant to deposit with him the probable expense of the survey; which expense will be calculated upon the following tariff, and be borne by the eventual purchaser,—

### *Tariff of charges for the survey and measurement of land throughout the colony.*

For a piece of ground, and dividing the same into small lots or			
erven, for the first four lots, each,	-	-	£0 12 0
For any beyond that number,	-	-	0 9 0
For the measurement of any piece of land up to 10 morgen,	-	-	0 12 0



For every morgen above 10 up to 100, per morgen,	-	-	0	0	3	Govt. Notice Sept. 7, 1843.
For 100 morgen,	-	-	1	14	6	
For every morgen above 100, as far as 500, per morgen,	-	-	0	0	1½	Crown Lands Conditions &c. for their disposal.
For 500 morgen,	-	-	4	4	6	
For every morgen above 500, per morgen,	-	-	0	0	1	
For 3,000 morgen,	-	-	14	12	10	
For every morgen above the same,	-	-	0	0	1	
For every diagram,	-	-	0	12	0	

4. Should the applicant not become the purchaser, the amount deposited by him will be refunded when paid by the eventual purchaser ; but should no sale take place, no refund can be made.

5. In some instances it will not be practicable to have the lands which have been applied for, surveyed before the sale takes place. In these cases they will be sold with the best description of the extent and boundaries the surveyor general can furnish ; and as they will be sold by the *acre*, the amount to be paid for the lot will have to be adjusted after the survey and measurement have been completed, by an increase or decrease of the sum previously paid by the purchaser.

6. Lands so applied for, and any others the government may think proper to offer for sale, will be advertised for two months in the *Government Gazette*, at the expiration of which time they will be sold, by public auction, either at Cape Town, or in the township of the division in which they may be situate.

7. Ten per cent of the purchase money must be paid at the time of sale, and the balance, (with the expenses of the survey, if the purchaser did not make the deposit), within one calendar month from the day of sale ; in default of which, the 10 per cent so paid will be forfeited to the colonial treasury.

Colonial Office, Cape of Good Hope, 7th September 1843.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

### *Government Notice.*

WHEREAS by government advertisement dated the 17th May 1832, it was publicly notified that no crown lands in this colony were thereafter to be alienated otherwise than by public sale, and that no memorials for the grant of new or unappropriated lands (or "*request places*") on quitrent, received at this office *after* the 9th day of January of the said year 1832, would be attended to.

And whereas it was further, by the said advertisement, made known, that applications for the grant of such new or unappropriated lands received at this office *before* the said 9th day of January 1832, would be acted upon and treated in the manner which was previously customary and usual in regard to such lands.

Gov. Notice.  
Sept. 7, 1843.

Applications  
for grants of  
land.

Govt. Notice.  
Sept. 7, 1843.

Applications  
or grants of  
land.

And whereas it is necessary that all such applications for grants of land received, as above stated, before the 9th day of January 1832, and upon which no decision has yet been given, should now be considered according to their respective merits, and finally disposed of :—All persons, whether the original applicants, their representatives, or others, who make claim to grants founded upon such applications, and who have not already forwarded their claims and proofs thereof to the surveyor general in Cape Town, or to the second assistant surveyor general in Graham's Town, are hereby required to transmit the particulars of their claims, with a statement, as far as in their power, of the situations, boundaries, and extent of the lands applied for, to the surveyor general in Cape Town, on or before the 15th March next after which date no such claim will be attended to.

Colonial Office, Cape of Good Hope, 7th September 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

### *Government Notice.*

Govt. Notice.  
Sept. 7, 1843.

Children of  
native tribes.

His Excellency the governor desires it to be notified, for general information, that the clerk of the peace of Worcester having taken into his official custody eight Kafir, Mantatee, and Bushmen children, brought illegally into the colony from beyond the Orange River, and detained as servants, by an individual residing in that division, the same being in contravention of the provisions of the ordinance No. 49 ; his excellency has directed the clerk of the peace to apprentice the said children to such respectable inhabitants as may appear to him most eligible for that purpose ; not being either the party by whom they were thus illegally brought into the colony, or by whom they have been illegally detained.

Her Majesty's attorney general has instructed the clerk of the peace to proceed against the individual in question, for the penalties prescribed in the said ordinance for such illegal detention ; and may also find cause to institute proceedings against the same individual, for the capital crime of unlawfully seizing and carrying off children.

And as this illegal bringing into the colony, and detention in servitude, of children of the native tribes can, in his excellency's opinion, be only looked upon as a species of slave trade, which it is his bounden duty to put down by every lawful means in his power ; and as, considering the number of persons who, from time to time, pass over the boundary-line for the purpose of trafficking with the natives, or otherwise, and who return to the colony, it may happen that the case above notified is not a

solitary instance, his excellency desires it to be distinctly understood that, under no circumstances, will he permit such children to be apprenticed to the parties by whom they may have been brought into the colony, or in whose service they may be found ; and that such parties will, invariably, be prosecuted for the whole of the penalties in that respect provided ; while at the same time, every exertion will be made to obtain such evidence as may convict all parties guilty of the atrocious crime already noticed.

Govt. Notice,  
Sept. 7, 1843.

Children of  
native tribes.

And his excellency hereby calls upon all Magistrates, justices of the peace, clerks of the peace, field cornets, and other public officers, to be aiding and assisting in the discovery and tracing out of all such cases, in order that the offenders may be dealt with according to law.

Colonial Office, Cape of Good Hope, 7th September 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

*Proclamation by His Excellency Major General Sir  
George Thomas Napier, &c. &c.*

WHEREAS it is expedient to alter the mode in which the trade between this colony and the territory of Port Natal has recently been regulated, and to arrange, provisionally, other terms and conditions upon which the said trade shall, for the time being, be carried on. And whereas by the 9th article of my proclamation of the 12th May 1843, I did, amongst other things, make known, that all dues and customs which should, after the legal establishment of the colony of Port Natal, be collected on any part of the coast thereof, would be applied exclusively to the maintenance of the civil government of the district. And whereas the provisional arrangement most convenient in itself, and most in unison with the gracious intentions of Her Majesty the Queen, as so conveyed, will be to place the port of Natal upon the same footing, with regard to this Colony, as other British possessions, and to defray out of the customs' revenue to be collected at the said port, such charges connected with the existing civil government of the territory aforesaid, as pending the definitive arrangement of Her Majesty's Government, I shall see reason to approve of, and authorise.

Proclamation  
Sept. 28, 1843.

Port Natal.  
Trading regulations.

Now, therefore, I do hereby proclaim, declare, and make known the several matters following, that is to say,—

1. The port of Natal shall be an open port for the purpose of trade.
2. Articles exported from the said port shall not be subject to any duty on exportation.
3. The trade between the said port and the several ports of



Proclamation  
Sept. 28, 1843.

Port Natal,  
Trading regu-  
lations.

this colony shall be regulated in all respects, by the principles which regulate the trade between each other of separate British possessions.

4. Every article imported into the said port from any place shall be subject to the same rate of duty as the like article would be subject to if imported from the same place into any of the ports of this colony.

5. Every article exempt from customs' duties in the ports of this colony, shall in like manner be exempt from customs' duties at the port aforesaid.

6. The several regulations and prohibitions contained in His late Majesty's order in council of the 22d February 1832, or of any act of Parliament in respect of the colony of the Cape of Good Hope, shall be applied in like manner to the port aforesaid.

7. A port due or charge of three shillings per British ton upon their registered burthen, shall be paid by all vessels, whether British or Foreign, entering the said port, except vessels belonging to Her Majesty.

8. No duty, due, or charge of any description whatsoever shall be taken or demanded at the said port, except only the customs' duties, and the port due or charge hereby established.

9. The provisions herein contained shall take effect in this colony, and at the port aforesaid, from the present date, except as to vessels already cleared out from either place to proceed to the other.

And I hereby further declare and make known, that a proper officer, with such assistance as shall be necessary, to be forthwith appointed, which officer shall collect and pay over, according to the instructions which he shall in that behalf receive, the customs' duties and the port due or charge aforesaid, and generally conduct the business appertaining to the customs' department in a British port.<sup>(1)</sup>

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 28th day of September, 1843.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*Proclamation by His Excellency Major General Sir  
George Thomas Napier, K.C.B. &c. &c.*

Proclamation  
Sept 28, 1843.

Port Natal.  
Pardoning  
Prinsloo and  
Breda.

WHEREAS the hon'ble Henry Cloete, esq., L.L.D., Her Majesty's commissioner at Port Natal, has recently represented to me, that Joachim Prinsloo and Michiel van Breda,—who, together with Jacobus Johannes Burger and Servaas van Breda,

(<sup>1</sup>) *Vide infra* p. 342.

were excepted from the general amnesty, or free pardon, granted to Her Majesty's formerly insurgent subjects at Port Natal, upon the 15th July 1842, by lieutenant-colonel Cloete, acting under the authority in that behalf to him delegated,—have evinced so loyal and peaceable a disposition in regard to their recognition of Her Majesty's authority, and cordial acceptance of the gracious terms granted by Her Majesty, as to justify him in recommending their case to my most favorable consideration :—Now, therefore, I do hereby proclaim, declare, and make known, that the general amnesty, or free pardon, aforesaid shall be, and the same is, hereby extended to the said Joachim Prinsloo and the said Michiel van Breda, as fully as if they had never been excepted therefrom.<sup>(1)</sup>

Proclamation  
Sept. 28, 1843.

Port Natal,  
Pardoning  
Prinsloo and  
Breda.

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at Cape Town,  
Cape of Good Hope, this 28th day of September 1843.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,  
(Signed) John Montagu,  
Secretary to Government.

*Government Notice.*

WITH reference to the government notice of the 17th ultimo<sup>(2)</sup> prohibiting the civil servants of this government from performing any private business connected with the departments to which they, respectively, belong; and it having been represented to his excellency the governor that it has been customary in the surveyor general's department to allow copies of title deeds and of the diagrams thereunto annexed, to be made by the officers there employed, on their private account, which practice has been discontinued in consequence of the prohibition above-mentioned; and as it appears to his excellency that public inconvenience may be experienced if such copies cannot be hereafter furnished:—Notice is hereby given, that the surveyor general has been instructed to prepare and issue such copies, upon satisfactory proof being adduced to him by the interested parties, by their attorneys, or by qualified agents, that the originals have been lost, and upon payment to him, on account of the public, of the sum of ten shillings (10s.) sterling for each such copy of an ordinary kind, or a greater amount in proportion to the details, or additional labour, any copy of an unusual nature may require.

Govt. Notice.  
Sept. 28, 1843.

As to Govt.  
Servants  
acting as  
Agents.

Colonial Office, Cape of Good Hope, 21st Sept. 1843.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

<sup>(1)</sup> *Vide supra*, p. 233 and 284.

<sup>(2)</sup> *Vide supra* p. 317 and *infra* p. 351.

Proclamation  
Oct. 3, 1843.

Port Natal.  
Duties on  
Wines and  
Spirits.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, K.C.B., &c. &c.*

WHEREAS by my proclamation of the 28th of September 1843, declaring the port of Natal an open port, and regulating the mode in which the trade between this colony and the said port shall, provisionally, be carried on,—I did proclaim that the table of customs' duties payable at the several ports of this colony should, for the time being, be the table of customs' duties payable at the said port. And whereas the customs' duties upon wines and spirits as set forth in the said table, are, to a certain extent, unsuited to the nature of the trade between this colony and the said port, and it is expedient to modify the said duties in such a manner as to withdraw an undue and injurious encouragement to the consumption of ardent spirits, in preference to that of Cape wines;—Now, therefore, I do hereby proclaim, declare, and make known, that wines the produce of this colony shall be admissible into the said port upon payment of one half of the rate of duty fixed by the said table for all other wines, and that spirits, of all sorts and descriptions, shall be liable at the said port to a duty of two shillings per imperial gallon, upon spirits not exceeding the strength of proof by Syke's hydrometer, and so in proportion for any greater strength,—any thing contained in my proclamation, aforesaid, to the contrary notwithstanding.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 3rd Day of October 1843.

(Signed) Geo. Napier.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

*Government Notice.*

Govt. Notice.  
Oct. 12, 1843.

Treaty with  
Republic of  
the Uruguay.

His Excellency the Governor has directed the publication, for general information, of the following Treaty of amity, commerce, and navigation, between Her Majesty and the oriental republic of the Uruguay.

Colonial Office, Cape of Good Hope, 12th October 1843.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.



Treaty of amity, commerce, and navigation, between Her Majesty and the oriental republic of the Uruguay, signed at London, August 26th, 1843.

Govt. Notice.  
Oct. 12, 1843.

Treaty with  
Republic of  
the Uruguay.

[*Ratifications exchanged at London, July 17, 1843.*]

Her Majesty the Queen of the united kingdom of Great Britain and Ireland, and His Excellency the President of the oriental republic of the Uruguay, being desirous of encouraging and extending the commercial intercourse between the British dominions and the territory of the republic; and deeming it meet that the friendly relations which now subsist between the two states, should be acknowledged and confirmed by the signature of a treaty of amity, commerce, and navigation; Her Britannick Majesty, and His Excellency the president of the oriental republic of the Uruguay have, for this purpose, named as their plenipotentiaries, that is to say:—

Her Majesty the Queen of the united kingdom of Great Britain and Ireland, the right honorable George, Earl of Aberdeen, Viscount Gordon, Viscount Formartine, Lord Haddo, Methlick, Tarvis, and Kellie, a peer of the united kingdom, a member of Her Majesty's most honourable privy council, knight of the most ancient and most noble order of the thistle, and Her Majesty's principal secretary of state for foreign affairs; and the right honourable Frederick John, Earl of Ripon, Viscount Goderich, a peer of the united kingdom, a member of Her Majesty's most honourable privy council, and president of the committee of privy council for affairs of trade and foreign plantations.

And His Excellency the president of the oriental republic of the Uruguay, Senor Don José Eflauri, his minister of state and for foreign affairs, envoy extraordinary and minister plenipotentiary of the republic to Her Britannick Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

Art. 1. There shall be perpetual peace and amity between the dominions and subjects of Her Majesty the Queen of the united kingdom of Great Britain and Ireland, Her heirs and successors, and the oriental republic of the Uruguay, and its citizens.

Art. 2. There shall be between all the territories of Her Britannick Majesty in Europe, and the territories of the oriental republic of the Uruguay, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have liberty freely and securely to come, with their ships and cargoes, to all places, ports, and rivers, in the territories aforesaid, to which other foreigners are or may be permitted to come; to enter into the same, and to remain and reside in any part of the said territories respectively; also to hire and occupy houses and warehouses for the purpose of their commerce; and,

Govt. Notice,  
Oct. 12, 1943.

Treaty with  
Republic of  
the Uruguay.

generally, the merchants and traders of each nation shall enjoy, within the territories of the other, the most complete protection and security for their commerce; subject always to the laws and statutes of the land.

In like manner, the respective ships of war and post office packets of the two countries shall have liberty freely and securely to come to all harbours, rivers, and places, in either country, to which other foreign ships of war and packets are or may be permitted to come; and they shall be allowed to enter into the same, to anchor and to remain there and refit; subject always to the laws and statutes of the two countries, respectively.

It is hereby declared, that the stipulations of the present article are not to be understood as applying to the navigation and carrying trade between one port and another, situated in the dominions of either contracting party, such navigation and trade being reserved exclusively to national vessels.

Art. 3. There shall be reciprocal liberty of commerce and navigation between and amongst the subjects and citizens of the two high contracting parties; and the subjects and citizens of the two countries, respectively, shall not pay in the ports, harbours, roads, cities, towns, or places whatsoever in either country, any other or higher duties, taxes, or imposts, under whatsoever names designated or included, than those which are there paid by the subjects or citizens of the most favoured nation; and the subjects and citizens of each of the high contracting parties shall enjoy the same rights, privileges, liberties, favours, immunities, and exemptions, in matters of commerce and navigation, that are granted, or may hereafter be granted, in either country, to the subjects or citizens of the most favoured nation.

No duty of customs or other impost shall be charged upon any goods the produce of one country, upon importation by sea or by land from such country into the other, higher than the duty or impost charged upon goods of the same kind, the produce of, or imported from, any other country. And Her Majesty the Queen of the united kingdom of Great Britain and Ireland, and the oriental republick of the Uruguay, do hereby bind and engage themselves not to grant any favour, privilege, or immunity, in matters of commerce and navigation, to the subjects or citizens of any other state, which shall not be also and at the same time extended to the subjects or citizens of the other high contracting party; gratuitously, if the concession in favour of that other state shall have been gratuitous; and on giving as nearly as possible the same compensation or equivalent, in case the concession shall have been conditional.

Art. 4. No higher or other duties or payments on account of tonnage, light or harbour dues, pilotage, salvage in case of damage or shipwreck, or any local charges, shall be imposed in any of the ports of the one country upon the vessels of the other, than are payable in those ports upon national vessels.

Art. 5. The same duties shall be paid on all articles, the

growth, produce, or manufacture of Her Britannick Majesty's dominions, when imported into the territories of the oriental republick of the Uruguay, whether such article be imported in vessels of the said republick, or in British vessels; and the same duties shall be paid on all articles, the growth, produce, or manufacture of the said republick, when imported into the dominions of Her Britannick Majesty, whether such article be imported in British vessels, or vessels of the said republick. The same duties shall be paid, and the same bounties and drawbacks allowed, on all articles the growth, produce, or manufacture of Her Britannick Majesty's dominions, when exported to the said republick of the Uruguay, whether such article be exported in vessels of the said republick, or in British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on all articles, the growth, produce, or manufacture of the said republick, when exported to the dominions of Her Britannick Majesty, whether such articles be exported in British vessels, or in vessels of the said republick.

Govt. Notice  
Oct. 12, 1843.

Treaty with  
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the Uruguay.

Art. 6.—In order to avoid any misunderstanding with respect to the regulations which may respectively determine what shall be considered a British vessel, or a vessel of the oriental republick of the Uruguay, when engaged in commerce between the two countries, it is hereby agreed, that all vessels built in the dominions of Her Britannick Majesty, or having been made prize of war, and condemned as such, or having been forfeited under any law made for the prevention of the Slave Trade, and condemned in any competent court for a breach of such law; and which shall be owned and navigated by subjects of Her Majesty, and whereof the master and three-fourths, at least, of the mariners shall be subjects of Her Britannick Majesty, and which shall be registered according to the laws of Great Britain, shall be considered as British vessels;—and that all vessels built within the territory of the said oriental republick of the Uruguay, or having been made prize of war and condemned as such, or having been forfeited under any law made for the prevention of the Slave Trade, and condemned in any competent court for a breach of such law, or being of *bona fide* British construction, built in any port of Her Britannick Majesty's dominions, and acquired by purchase; and which shall be owned and navigated by citizens of the said republick, and whereof the master and three-fourths, at least, of the mariners shall be citizens of the said republick, or matriculated subjects of Her Britannick Majesty, and which shall be registered according to the laws of the said republick, shall be considered as vessels of the said oriental republick of the Uruguay, so far as shall relate to any commercial rights or privileges in the several ports of Her Britannick Majesty's dominions.

And it is further agreed, that no ship considered as being the ship of either country, shall be qualified to trade, as above



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described, under the provisions of this Treaty, unless she be furnished with a register, passport, or sea-letter, under the signature of the proper person authorized to grant the same, according to the laws of the respective countries, and in a form to be reciprocally communicated by the two governments to each other. Such register, passport, or sea-letter shall certify the name, occupation, and residence of the owner or owners in the dominions of Her Britannick Majesty, or in the territories of the oriental republick of the Uruguay, as the case may be; shall declare that he, or they, is or are the sole owner of the ship, or owners in the proportion to be specified; and shall state the name, burden, and description of the vessel, as to build and measurement; and if the vessel is of foreign build, of what country, and, as far as may be possible, when and from whom purchased; and all other particulars constituting the national character of the vessel, as the case may be.

Art. 7.—The subjects of Her Britannick Majesty shall have full liberty, in all the territories of the oriental republick of the Uruguay, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; and they shall not be obliged to employ any other persons in those capacities, than those employed by the citizens of the oriental republick of the Uruguay; and they shall not be restrained in their choice of persons to act in such capacities, nor be obliged to pay them any other salary or remuneration, than such as is paid in like cases by the citizens of the said republick; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandize imported into and exported from the oriental republick of the Uruguay, as they shall see fit, provided they observe the laws and established customs of the country. The same privileges shall be enjoyed in the dominions of Her Britannick Majesty, by the citizens of the oriental republick of the Uruguay, under the same conditions.

The subjects and citizens of each of the contracting parties, respectively, shall, in the territories of the other, receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in the said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ, in all causes, the advocates, attornies, or agents of whatever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

Art. 8.—In whatever relates to the police of ports; the lading and unlading of ships; the safety of merchandize, goods, and effects; the succession to personal estates by will or otherwise; and the disposal of personal property of every sort and denomination, by sale, donation, exchange or in any other manner what-

soever; and to the administration of justice; the subjects and citizens of each of the two contracting parties shall enjoy, in the dominions and territories of the other, the same privileges, liberties, and rights, as native subjects or citizens; and they shall not be charged, in any of these respects, with any higher imposts or duties than those which are or may be paid by natives; conforming of course to the local laws and regulations of such dominions and territories.

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And it is further agreed, that the subjects and citizens of the two contracting parties shall have and enjoy, in all the dominions or territories of each other, the most full and perfect liberty to devise or dispose of their property and effects of every kind and denomination, and wheresoever situate, by will or testament, to such person or persons, and in such proportions, as their own free will may dictate.

If any subject or citizen of either of the two contracting parties should die without will or testament in the dominions or territories of the other, the consul-general or consul, or, in his absence, the representative of such consul general or consul, shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, without being interfered with by the authorities of the country, but giving to those authorities due and proper notice.

Art. 9.—The subjects of Her Britannic Majesty residing in the territories of the oriental republick of the Uruguay, and the citizens of the said republick residing in the dominions of Her Britannick Majesty, shall be exempted from all compulsory military service whatsoever, either by sea or land, and from all forced loans or military exactions or requisitions.

Neither shall they be compelled, under any pretext whatsoever, to pay any charges, requisitions, or taxes, greater than those which are or may be paid by native subjects or citizens of the territories in which they reside.

Art. 10.—It shall be free for each of the two contracting parties to appoint consuls for the protection of trade, to reside in the dominions and territories of the other party; but no consul shall act as such, until he shall, in the usual form, be approved and admitted by the government to which he is sent; and either of the contracting parties may except from the residence of consuls, such particular places as they may judge fit to be excepted. The diplomatic agents and consuls of the oriental republick of the Uruguay, in the dominions of Her Britannick Majesty, shall enjoy whatever privileges, exemptions, and immunities, are or may there be granted to agents of the same rank belonging to the most favoured nation; and in like manner, the diplomatic agents and consuls of Her Britannick Majesty in the territories of the oriental republick of the Uruguay, shall enjoy, according to the strictest reciprocity, whatever privileges, ex-

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emptions, and immunities, are or may there be granted to the diplomatic agents and consuls of the most favoured nation.

11. For the better security of commerce between the subjects of Her Britannic Majesty and the citizens of the Oriental Republic of the Uruguay, it is agreed, that if at any time any interruption of friendly intercourse or any rupture should unfortunately take place between the two countries, the subjects or citizens of either of the two contracting parties who may be within the territories of the other, shall, if residing upon the coasts, be allowed four months, and if residing in the interior, nine months, to wind up their accounts and to dispose of their property; and a safe conduct shall be given to all such of the aforesaid persons as may choose to quit the country, to enable them to embark unmolested, at the port which the Government of the country shall select. It is, moreover, further agreed, that all subjects or citizens of either of the two contracting parties who, at the time of any such interruption of friendly relations between the two countries, shall be established in the exercise of any trade or special employment in the dominions or territories of the other, shall have the privilege of remaining and of continuing such trade and employment therein, without any manner of interruption, in full enjoyment of their liberty and property, so long as they conduct themselves peaceably, and commit no offence against the laws; and their goods and effects, of whatever description, whether in their own custody, or entrusted to individuals or to the state, shall not be liable to seizure or sequestration, or to any other charges or demands than those to which like effects or property belonging to native subjects or citizens may be liable. Debts between individuals, property in the public funds, and shares of companies, shall never be confiscated, sequestered, or detained.

12. The subjects of her Britannic Majesty, and the citizens of the oriental republic of the Uruguay, respectively, residing in the territories of the other party, shall enjoy in their houses, persons, and properties, the protection of the government, and continue in possession of the privileges which they now legally enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religion, but they shall have perfect liberty of conscience, provided they respect the religion of the country in which they reside, as well as the constitution, laws, and customs of the land. They shall also have permission to celebrate divine service, according to the rites and ceremonies of their own church, either within their own private houses, or in their own particular churches or chapels, which they shall be at liberty to build and maintain in convenient places, approved of by the government. Liberty shall also be granted to the subjects or citizens of either of the two contracting parties resident in the territories of the other, to bury in burial places of their own, such of their fellow subjects or fellow-citizens, who



may die in such territories. Such burial places may be freely established and maintained; and the funerals and sepulchres of the dead shall not be disturbed in any way, or upon any account.

13. The present treaty shall be in force for the term of ten years from the date thereof; and further, until the end of twelve months after either of the high contracting parties shall have given notice to the other of its intention to terminate the same: each of the high contracting parties reserving to itself the right of giving such notice to the other at the end of the said term of ten years, or at any subsequent time.

And it is hereby agreed between them, that at the expiration of twelve months after such notice shall have been received by either party from the other, this treaty, and all the provisions thereof, shall altogether cease and determine.

14. The present treaty shall be ratified, and the ratifications shall be exchanged at London, as soon as possible within the period of eighteen months from the date thereof.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two.

(L.S.)      Aberdeen,  
(L.S.)      Ripon,  
(L.S.)      Jose Ellauri.

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#### *Additional Article.*

Whereas by article 9 of the treaty of amity, commerce, and navigation, concluded and signed this day between her Britannic majesty and the oriental republic of the Uruguay, it is stipulated that the subjects of her Britannic Majesty residing in the said republic shall not be compelled, under any pretext whatsoever, to pay any charges, requisitions, or taxes, greater than those which are or may be paid by native citizens; and whereas, by a law of the oriental republic of the Uruguay, a foreigner pays for the licence to open a shop, or other establishment included in the provisions of the said law, a sum greater than that which is paid by a native citizen; her Britannic Majesty engages, notwithstanding the provisions of the above-mentioned article, not to insist upon the abolition of this distinction, so long as it exists impartially with regard to the subjects or citizens of every other foreign nation.

And his excellency the president of the oriental republic of the Uruguay engages, on his part, that if at any future time, the amount payable by British subjects for such licence should be increased, a corresponding increase shall at the same time be made in the sum payable by native citizens of the republic; so that the proportion between the sum payable by British subjects and the sum payable by citizens of the oriental

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republick of the Uruguay, respectively, shall never be altered to the prejudice of British subjects.

The present additional article shall have the same force and validity as if it were inserted, word for word, in the treaty signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two.

(L.S.)	Aberdeen,
(L.S.)	Ripon,
(L.S.)	Jose Ellauri,

### *Second Additional Article.*

Whereas a strict and immediate execution of that part of article 6 of the treaty of amity, commerce, and navigation, signed at London on the 26th of August 1842, between her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the oriental republick of the Uruguay, which stipulates that a ship must have been actually built within the territory of the oriental republick of the Uruguay, to be considered a ship of that republick, would, in the present state of Uruguay shipping, deprive the republick of the full advantage of the reciprocity intended to be established by the treaty, it is agreed that for the space of seven years from the date of the exchange of the ratifications of the said treaty, any ships, wheresoever built, being owned, navigated, and registered in conformity with the provisions of article 6 of the treaty, shall be considered as ships of the oriental republick of the Uruguay: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland reserving to herself the right to claim, at the end of the said term of seven years, the strict enforcement of all the stipulations contained in the said article of the treaty, relative to the conditions which are to determine the national character of vessels of the Oriental Republick of the Uruguay.

The present additional articles shall have the same force and validity as if it had been inserted, word for word, in the afore-said treaty of the 26th of August 1842. It shall be ratified, and the ratification shall be exchanged at the same time and place as those of the treaty.

In witness whereof, the undersigned, plenipotentiaries of Her Britannic Majesty and of the Oriental Republick of the Uruguay, have signed the same, and have affixed thereto the seals of their arms.

Done at Montevideo, the eighth day of March, in the year of our Lord one thousand eight hundred and forty-three.

(L.S.)	J. H. Mandeville.
	Santiago Vasquez.

*Government Notice.*Govt. Notice  
Oct. 19, 1843.As to Govt.  
Servants  
acting as  
Agents.

WITH reference to the government notice of the 17th August last,<sup>(1)</sup> prohibiting the civil servants of this government from performing any private business connected with the departments to which they, respectively, belong; and it having been represented to his excellency the governor that some of the clerks in the office of the master of the supreme court have been accustomed to make copies of wills, and also of the reports of trustees in insolvent estates, for their private benefit, which practice has been discontinued in consequence of the prohibition abovementioned:—Notice is hereby given that the master has been instructed to cause such copies to be made in his department, upon the public account, charging for each copy of a will at the rate fixed by the tariff annexed to Ordinance No. 104, and for each copy of a trustee's report the sum of ten shillings (10s), accounting for the sums so received, to the colonial treasury, at the end of every month.

Colonial Office, Cape of Good Hope, 19th October 1843.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

THE following despatch, from the right honorable the secretary of state for the colonies, was this day read in the legislative council, and, thereafter, the resolutions hereunto annexed were proposed by the hon. the secretary to government, seconded by the hon. J. B. Ebdon, Esq., and carried unanimously, and were directed to be published for general information.

Conn. Notice:  
Oct. 19, 1843.Balance of  
compensation  
Money.

Chamber of the Legislative Council, Thursday, 19th October 1843.

By Command of His Excellency the Governor,

(Signed) J. Moore Craig,  
Acting Clerk to the Legislative Council.

*Downing-street, 12th March 1843.*

No. 240.

Sir,—A letter has been addressed to this department, by direction of the lords' commissioners of the treasury, enclosing copy of a statement of the reserve fund of slave compensation at the national debt office on the 31st December last, showing the balance remaining to the credit of each of the colonies, out of sums originally set apart for that purpose.

According to this statement, it appears that the balance due to the colony under your government is £5906 18 4½. By the 6th section of the act of parliament, 4 and 5 Vic., c. 8, it is provided, "that after the completion of the awards or claims for compensation now outstanding, the commissioners of her

(1) *Vide supra*, p.p. 317 and 341.



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majesty's treasury may, with the consent and approval of Her Majesty's secretary of state for the colonies, authorise the issue and application in aid of the funds of any charitable institution, or establishment for education, maintained at the public charge within any colony, of the amount of any such surplus of the sum reserved out of the compensation apportioned for such colony, as may remain unappropriated."

I have, accordingly, to request you will take the necessary measures for ascertaining from the legislative council of your government, what is the appropriation which they would recommend (within the terms of the Act) of the balance of the reserve compensation fund, payable to the colony of the Cape of Good Hope:

I have the honor to be, Sir,  
Your obedient, humble Servant,  
Stanley.

Major-General Sir G. Napier, K.C.B.,  
Cape of Good Hope.

Resolved,—

That this council having taken into consideration the right honorable the secretary of state's despatch No. 240 of the 12th March last, acquainting his excellency the governor, that of the balance of the reserved fund of slave compensation at the national debt office, a sum of £5,906 18 4½ is due to this colony, and is applicable, under the provisions of the act of parliament, 4 and 5 Vict. chap. 8, in aid of the funds of any charitable institution, or establishment for education, in this colony, maintained at the public charge,—recommend:—

1. That the said sum of £5,906 18 4½ be placed in the hands of three officers of the government, to be named by his excellency the governor as trustees,—to be by them invested in some secure and profitable manner, to be approved of by government.

2. That the interest, or profits, accruing upon such investment, be appropriated by the said trustees, primarily, in providing the means of education for the liberated Africans, and the late slaves, and for the offspring of those classes, respectively; and that any sum remaining after such appropriation, be applied in aid of the funds of mission schools, or those for the education of persons not strictly appertaining to the two classes specially mentioned. And

3. That a statement of the appropriation of such interest or profits, be laid annually before this council, as well for information as for guidance in making provision for the educational wants of the colony.

*Government Notice.*Govt. Notice  
Oct. 12, 1843.Treaty  
between  
Great Britain  
and Russia.

His excellency the governor has been pleased to direct the publication, for general information, and for the guidance of whomsoever it may concern, of the following treaty of commerce and navigation between Her Britannick Majesty and the Emperor of Russia, together with an order made by Her Majesty in council for giving effect to that treaty.

Colonial Office, Cape of Good Hope, 12th October 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

Treaty of commerce and navigation between Her Majesty and the Emperor of all the Russias, signed at St. Petersburg, January 11, 1843.

[*Ratifications exchanged at London, January 31, 1843.*]

In the name of the Most Holy and Indivisible Trinity.

Her Majesty the Queen of the united kingdom of Great Britain and Ireland and His Majesty the Emperor of all the Russias being desirous of extending, increasing, and consolidating the commercial relations between their respective dominions and possessions, and of thereby procuring all possible facilities and encouragements for those of their subjects who partake in those relations; and being persuaded that nothing can more contribute to the accomplishment of their mutual wishes in this respect, than the reciprocal abolition of the differential and countervailing duties which are at present exacted and levied on the vessels or produce of either of the two states in the ports of the other, have named as their plenipotentiaries for the conclusion of a treaty to this effect, that is to say:

Her Majesty the Queen of the united kingdom of Great Britain and Ireland, the right honorable Charles Baron Stuart de Rothsay in the Isle of Bute, peer of parliament, member of the privy council, knight grand cross of the most honorable order of the bath, and of the ancient order of the tower and sword of Portugal, ambassador extraordinary and plenipotentiary to His Majesty the Emperor of all the Russias;

And His Majesty the Emperor of all the Russias, the sieur Charles Robert Count Nesselrode, His privy councillor, vice chancellor, member of the council of the empire, knight of the orders of Russia, and of several others; and the sieur George Count Cancrine, general of infantry, minister of finance, member of the council of the empire, knight of the orders of Russia, and of several others;

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Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles :

Art. 1.—There shall be reciprocal freedom of navigation and commerce for the ships and subjects of the two high contracting powers, in all parts of their respective dominions where navigation and commerce are at present allowed, or may hereafter be allowed, to the ships and subjects of any other nation.

Art. 2.—From the date of the exchange of the ratifications of the present treaty, British vessels arriving in, or departing from, the ports of His Majesty the Emperor of all the Russias, and the Russian vessels arriving in, or departing from, the ports of the united kingdom of Great Britain and Ireland, and of all the possessions of Her Britannick Majesty, shall be subject to no other or higher duties or charges of whatsoever nature they may be, than those which are now, or shall hereafter be imposed on national vessels, on their entering into, or departing from, such ports.

Art. 3.—In consideration that British ships arriving directly from other countries than those belonging to the high contracting parties, are admitted with their cargoes into the ports of the Russian empire, without paying any other duties whatsoever than those payable by Russian vessels ; and in consideration of the advantages which, in this respect, the present treaty specifically grants to British commerce in the grand duchy of Finland ; it is agreed that from the date of the exchange of the ratifications of the present treaty, Russian vessels arriving from the mouth of the Vistula, the Niemen, or any other river which forms the outlet of a navigable stream having its source in the dominions of his majesty the emperor of all the Russias, or passing through the said dominions, shall be admitted, with their cargoes, into the ports of the united kingdom of Great Britain and Ireland, and of all the possessions of her Britannick Majesty, exactly in the same manner as if those vessels arrived directly from Russian or Finnish ports, with all the privileges and immunities agreed upon by the present treaty of navigation and commerce. In like manner, Russian vessels proceeding from any port of Great Britain, or of the British possessions, for the mouth of any of the abovementioned rivers, shall be treated as if they were returning to a port of the empire of Russia, or of the grand duchy of Finland. It is, however, understood, that these privileges shall apply to Russian vessels and their cargoes, with respect to places situated at the mouths of the above-mentioned rivers, only so long as British vessels and their cargoes shall be treated at those places, on their arrival and departure, on the same footing with Russian vessels.



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Art. 4.—All productions of the soil, industry, and art of the dominions and possessions of His Majesty the Emperor of all the Russias, including the said productions which may be exported by the rivers or streams mentioned in the preceding article, and which may be imported into the ports of the united kingdom and the possessions of Her Britannick Majesty; and also all the productions of the soil, industry, and art of the united kingdom and possessions of Her Britannick Majesty, which may be imported into the ports of His Majesty the Emperor of all the Russias shall enjoy reciprocally, in all respects, the same privileges and immunities, and may be imported and exported exactly in the same manner, in vessels of the one as in vessels of the other high contracting party.

Art. 5.—All articles which are not the productions of the soil, industry, and art of the respective states or of their possessions, and which may be legally imported from the ports of His Majesty the Emperor of all the Russias, as likewise from those of the rivers and streams mentioned in the third article, into the ports of the united kingdom of Great Britain and Ireland, and of all the possessions of Her Britannick Majesty, in Russian vessels, shall be subject to the same duties only as would be payable upon the same articles, if they were imported in British vessels.

In like manner, all articles which are not productions of the soil, industry, and art of the respective states or of their possessions, and which may be legally imported from the ports of the united kingdom, and of all the possessions of Her Britannick Majesty, into the ports of His Majesty the Emperor of all the Russias, in British vessels, shall be subject to the same duties only which would be payable upon the same articles, if they were imported in Russian vessels.

Her Britannick Majesty grants by this treaty to Russian navigation and trade, all the benefits and privileges of navigation and commerce now enjoyed, or which may hereafter be enjoyed, by the most favoured nations, under existing laws and acts of parliament, or in virtue of orders in council, or treaties.

Art. 6.—All merchandize and articles of commerce which, according to the stipulations of the present treaty, or according to the laws and ordinances in force in the respective countries, may be legally imported into, or exported from, the dominions and possessions of the two high contracting parties, either under the British flag, or under the Russian flag, shall, in like manner, be subject to the same duties, whether imported in vessels of the other state, or in national vessels: and the same bounties, drawbacks, and advantages shall be granted upon all merchandise and articles of commerce which may be legally exported from the ports of either state, whether exported in vessels of the one or in vessels of the other state.

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Art. 7.—All merchandise and articles of commerce which shall be imported into, deposited or warehoused in, the ports of the dominions and possessions of the high contracting parties, shall be subject, while so warehoused, to the same regulations, conditions, and duties, whether imported in British or in Russian vessels. In the same manner, the re-exportation of such merchandise or articles of commerce shall be treated in the same manner, and be liable to the payment of the same duties, whether exported in British or in Russian vessels.

Art. 8.—No priority or preference shall be given, directly or indirectly, by either of the two governments, or by any company, corporation, or agent acting in its name or under its authority, in the purchase of any production of the soil, industry, or art of either of the two states and their possessions, imported into the ports of the other, on account of the nationality of the vessel in which such article may have been imported; it being the fixed intention of the two contracting parties, that no difference or distinction whatever shall be made in this respect.

Art. 9.—In regard to the commerce to be carried on in Russian vessels with the British possessions in the East Indies, Her Britannick Majesty consents to grant to the subjects of His Majesty the Emperor of all the Russias, the same advantages and privileges as are or may be enjoyed, under any treaty or act of parliament, by the subjects or citizens of the most favoured nation, subject to the laws, rules, regulations, and restrictions, which are or may become applicable to the vessels and subjects of any other state enjoying the same advantages and privileges for trading with the said possessions.

Art. 10.—The stipulations of the present treaty shall not apply to the coasting trade carried on between port and port in the dominions of either contracting party, by the sailing or steam vessels of the other, so far as regards the carrying of passengers, merchandize, or articles of commerce; this trade being reserved exclusively to national vessels.

Art. 11.—The vessels and subjects of the high contracting parties shall, by the present treaty, reciprocally enjoy all such advantages, immunities, and privileges, in the ports of their respective dominions and possessions, as are now enjoyed by the navigation and commerce of the most favoured nations; the intention being to secure, in the united kingdom and in the British possessions, to Russian vessels and subjects, the full and entire advantages of navigation and commerce granted by existing laws and acts of parliament, orders in council, or treaties, to other powers, or which may hereafter be granted; and, in like manner, British vessels and subjects shall enjoy in the ports of the dominions and possessions of His Majesty the Emperor of all the Russias, the full and entire advantages of navigation

and commerce granted by existing laws, regulations, and ordinances, or by treaties, to foreign powers, or which may hereafter be granted. And their Majesties the Queen of the united kingdom of Great Britain and Ireland, and the Emperor of all the Russias, engage reciprocally not to grant any favours, privileges, or immunities whatsoever, in matters of commerce and navigation, to the subjects or citizens of any other state, which shall not be also at the same time granted to the subjects of the other high contracting party, gratuitously, if the concession in favour of the other state shall have been gratuitous, or upon giving as nearly as possible the same compensation or equivalent, in case the concession shall have been conditional.

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Art. 12.—It is understood that, in regard to commerce and navigation in the Russian possessions on the north-west coast of America, the convention concluded at St. Petersburg, on the <sup>sixteenth</sup> ~~twenty-eighth~~ February, 1825, continues in force.

Art. 13.—Any British or Russian vessel which may be compelled by stress of weather or by accident to take shelter in the ports of either of the high contracting parties, shall be at liberty to refit therein, to procure all necessary stores, and to put to sea again, without paying any other than port and lighthouse dues which shall be the same as those payable by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandize in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

In the event of a vessel being wrecked at a place belonging to either of the high contracting parties, there shall not only be afforded to the persons shipwrecked every kind of assistance, but, moreover, the merchandize and effects which they may have thrown overboard, or which may have been saved, shall not be seized or detained under any pretext whatsoever. The said effects and merchandize shall, on the contrary, be preserved and restored on payment of the same rate of salvage, and of customs or other duties, which would have been payable in the like case of a wreck of a national vessel. In the case either of shipwreck, or of a vessel being driven into port by stress of weather, the respective consuls, vice-consuls, or commercial agents, shall be authorised to interpose in order to afford the necessary assistance to their fellow-countrymen.

Art. 14.—The consuls, vice-consuls, or commercial agents of each of the two high contracting parties residing in the dominions of the other, shall receive from the local authorities such assistance as can by law be given to them, for the recovery of deserters from ships of war or merchant vessels of their respective countries.



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Art. 15.—The present treaty shall remain in force during the space of ten years dating from the exchange of the ratifications thereof; and further, until the expiration of twelve months after either of the high contracting parties shall have given notice to the other of its intention to put an end thereto; each of the high contracting parties reserving to itself the right of giving such notice to the other at the expiration of the first nine years: and it is agreed between them, that at the expiration of twelve months after such notice shall have been received by either of the high contracting parties from the other, the present treaty, and all the stipulations contained therein, shall cease to be binding on the two parties.

Art. 16.—The present treaty shall be ratified, and the ratifications thereof exchanged at London, at the expiration of one month, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have fixed thereto the seals of their arms.

Done at St. Petersburg, the <sup>eleventh</sup><sub>thirtieth</sub> day of <sup>January</sup><sub>December</sub>, in the year of our Lord one thousand eight hundred and forty-<sup>three</sup><sub>two</sub>.

(L.S.)

Stuart de Rothsay.

(L.S.)

Nesselrode.

(L.S.)

Cancrine.

#### *Separate Article 1.*

The commercial intercourse of Russia with the Kingdoms of Sweden and Norway being regulated by special stipulations, which may hereafter be renewed, and which do not form part of the regulations applicable to foreign commerce in general, the two high contracting parties, being desirous of removing from their commercial relations every kind of doubt or cause for discussion, have agreed that those special stipulations granted in favour of the commerce of Sweden and Norway, in consideration of equivalent advantages granted in those countries to the commerce of the grand duchy of Finland, shall in no case apply to the relations of commerce and navigation established between the two high contracting parties by the present treaty,

#### *Separate Article 2.*

It is understood, in like manner, that the exemptions, immunities, and privileges hereinafter mentioned, shall not be considered as at variance with the principle of reciprocity which forms the basis of the treaty of this date, that is to say;—

1. The exemption from navigation dues during the first three years, which is enjoyed by vessels built in Russia, and belonging to Russian subjects;

2. The exemptions of the like nature granted in the Russian ports of the black sea, the sea of Azoff, and the Danube, to such Turkish vessels arriving from ports of the Ottoman Empire, situated on the black sea, as do not exceed eighty lasts burthen ;

3. The permission granted to the inhabitants of the coast of the government of Archangel, to import duty free, or on payment of moderate duties, into the ports of the said government, dried or salted fish, as likewise certain kinds of furs, and to export therefrom, in the same manner, corn, rope and cordage, pitch, and ravenstuck ;

4. The privilege of the Russian American company ;

5. The privilege of the steam navigation companies of Lubeck and Håvre ; lastly,

6. The immunities granted in Russia to certain English companies, called " yacht clubs."

The present separate articles shall have the same force and validity as if they were inserted, word for word, in the treaty signed this day. They shall be ratified, and the ratifications thereof exchanged at the same time.

In witness whereof the respective plenipotentiaries have signed the same, and have fixed thereto the seals of their arms.

Done at St. Petersburg, the <sup>eleventh</sup> <sup>thirtieth</sup> day of <sup>January</sup> <sup>December</sup>, in the year of our Lord one thousand eight hundred and forty-<sup>three</sup> <sup>two</sup>.

Stuart de Rothsay. (L.S.)

Nesselrode. (L.S.)

Cancrine. (L.S.)

*At the Court at Buckingham Palace, the 24th Feb. 1843.*

Present,—The Queen's Most Excellent Majesty in Council.

WHEREAS by an act passed in the 59th year of the reign of His Majesty King George the 3rd, intituled "*an act to carry into effect a convention of commerce concluded between His Majesty and the United States of America, and a treaty with the Prince Regent of Portugal*," divers provisions were made respecting the duties payable, and the bounties and allowances to be granted upon the importation and exportation of goods, wares and merchandize into or from the United Kingdom, in vessels of the United States and in Portuguese vessels, and also respecting the duties and charges payable upon vessels of the United States and upon Portuguese vessels, and likewise respecting the repayment of certain corporations, bodies politic and corporate, and sundry other persons, of the amount of the sums of money of which they would be deprived by means of the act now in recital.

Govt. Notice  
Oct. 12, 1843.

Treaty  
between  
Great Britain  
and Russia

Govt. Notice  
Oct. 12, 1843.

Treaty  
between  
Great Britain  
and Russia.

And whereas by an Act passed in the sessions of parliament held in the 1st and 2nd years of the reign of Her present Majesty, intituled "*An act to amend the laws of the customs,*" after reciting as hereinbefore is recited, and also that subsequently to the enactment of the hereinbefore recited act, Her Majesty and Her royal predecessors had made and concluded, with divers foreign powers, treaties containing provisions similar to those recited in the said recited act, and that doubts had arisen whether, according to the true construction thereof, the said recited act did apply and extend to the trade and shipping of such other foreign powers, and that it was expedient that such doubts should be removed, it is thereby enacted and declared that from and after the ratification of any treaty theretofore made by Her Majesty or any of Her royal predecessors subsequently to the enactment of the said recited act, or of any treaty which might thereafter be made by Her Majesty, Her heirs and successors, with any such foreign power, in which treaty had been or should be contained provisions similar to those contained in the said recited act, all and every the provisions, clauses, matters and things in the said recited act contained, did and should apply and extend to the trade and shipping of such foreign powers, respectively, as fully and effectually to all intents and purposes as to the trade and shipping of the said United States and of the said kingdom of Portugal. And by the said act now in recital it is enacted and declared, that the said recited act did not extend, and should not be construed to extend, to grant or to confer upon the trade or shipping of the said United States or of the said kingdom of Portugal, or of any other foreign power, or to the subjects of such states or kingdom, or of any such foreign power as aforesaid, any other or greater advantages than such as should have been stipulated for and granted to the said United States, the said kingdom of Portugal, or any such other foreign power, by the respective treaties subsisting and in force between them, respectively, and Her Majesty, Her heirs and successors, or Her royal predecessors, but that the said recited act should be so construed and applied as to give full and complete effect to such respective treaties so long as the same shall respectively remain in force, and should provide such and only such indemnity as therein mentioned to such bodies politic and corporate, and other persons, as were therein mentioned, for such losses as they should respectively sustain by the execution of such respective treaties.

And for the prevention of uncertainty therein it was enacted by the said act now in recital, that it should and might be lawful for Her Majesty by any order or orders by Her made, with the advice of her privy council, and published in the London Gazette from time to time, to declare what are the foreign powers



with which any such treaty or treaties as aforesaid is or are subsisting, and that the act now in recital and the said recited act should apply, and should be deemed from the time of the ratification of any such treaties to have been applicable to the trade and shipping of such foreign countries as should be so mentioned in any such order or orders in council as aforesaid, so long as any such order or orders shall continue unrevoked and no longer.

Govt. Notice  
Oct. 12, 1843.

Treaty  
between  
Great Britain  
and Russia.

Now, therefore, Her Majesty, by and with the advice of Her privy council, doth, in pursuance and in exercise of the power and authority in Her vested by the act so passed as aforesaid in the session of parliament held in the 1st and 2nd year of Her reign, declare that such a treaty as in the same act is mentioned, containing provisions similar to those contained in the said recited act of the 59th year of His Majesty King George the 3rd, is now subsisting between Her Majesty and His Majesty the Emperor of all the Russias, being a treaty of commerce and navigation between Her Majesty and the Emperor of all the Russias, signed on the 11th day of January, in this present year, and the ratifications whereof were exchanged on the 31st day of the same month.

And the Right Honorable the Lords commissioners of Her Majesty's treasury are to give the necessary directions herein accordingly.

No. 6, 1843.—Signed, Geo. Napier.

*Ordinance, for regulating the due Collection, Administration, and Distribution of Insolvent Estates within this Colony.*

*Preamble.*—Ordinance No. 64,<sup>(1)</sup> publication of 4th September, 1805, and part of Ordinance No. 5, 1842,<sup>(2)</sup> repealed.

WHEREAS the law as contained in the Ordinance No. 64, bearing date the 6th of August, 1829, and intituled "an Ordinance for regulating the due collection, administration, and distribution of insolvent estates within this colony," requires certain additions and alterations: And whereas it is expedient, in order that the said additions and alterations may most conveniently be made, that the said Ordinance No. 64 should be repealed, and a new Ordinance enacted in its stead: And whereas it is also expedient, that all insolvent estates within this colony should be, hereafter, administered under one uniform system of law, and, to that end, that the benefit or relief of cession of goods and property, commonly called the *cessio bonorum*, now available to insolvent debtors in this colony, should be abolished:<sup>(3)</sup> Be it therefore enacted by the governor of the Cape of Good Hope, by and

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(1) *Vide* vol. 2d, p. 35.

(2) *Vide supra*, p. 208.

(3) This benefit was given by the Roman Dutch Law, and was not interfered with by the Ordinance No. 64.

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with the advice and consent of the legislative council thereof, that from and after the passing of this ordinance, the Ordinance aforesaid No. 64, and the publication of the 4th of September, 1805, respecting transfers, cessions, pledges, and other securities entered into by debtors within twenty-eight days previous to their insolvency, and so much of Ordinance No. 5, 1842, intituled "an ordinance to provide for the lodgment elsewhere than in the government discount bank of this colony, of certain monies now by law required to be lodged in the said bank," as is, in substance, hereinafter set forth and re-enacted,—and all laws and customs heretofore in force within this colony, in so far as the same are repugnant to, or inconsistent with, any of the provisions of this ordinance, shall be, and the same are hereby, respectively repealed.

*Cessio bonorum abolished.*

1. And be it enacted, that from and after the passing of this ordinance, it shall not be lawful for any person or persons to obtain from any court within this colony, or for any such court to grant to any person or persons, the benefit or relief of cession of goods and property, commonly called the *cessio bonorum*, as heretofore known to, and allowed by, the law of this colony: provided, however, that nothing herein contained shall be deemed or taken to affect in any way the estate or condition of any person to whom, before the passing of this ordinance, the said benefit or relief shall have been duly granted, which estate shall be administered, and which condition shall be judged of, precisely as if this ordinance never had been made.

*Proof of insolvency and surrender of estate thereon.*

II. And be it enacted, that it shall and may be lawful for the supreme court, or any circuit court, or for the chief justice of this colony, or any other of the judges of the supreme court, upon the petition, in writing, of any person, setting forth that he is insolvent, and desirous of surrendering his estate for the benefit of his creditors, to direct such person to appear before him, to be examined touching his said insolvency, or to require such other proof thereof, by affidavits of the said insolvent and others, as to the said court or the judge may seem fit; or to direct such petitioner to appear before any person, duly appointed by the supreme court its commissioner for such purposes, and to direct such commissioner to examine the petitioner in manner aforesaid, and to take such proof of the matters aforesaid, as to the said commissioner shall seem fit; and to make out and transmit to the registrar of the supreme court a report of such examination and proof taken as aforesaid. And it shall and may be lawful for the said court or judge, before whom such examination is taken, or for the said court, or the chief justice, or any judge of the supreme court, on considering

the report of any such commissioner, made in manner aforesaid, upon proof of the matter aforesaid to his satisfaction, to accept the surrender of such estate, and by order, under his hand, to place the same under sequestration in the hands of the master of the said court. Provided also, that any person authorised by power of attorney to administer the estate of any person absent from the colony may present, in the name of such last mentioned person, such petition as aforesaid, and thereupon the same proceeding shall, as near as may be, be had and taken as if the person so absent from the colony had himself petitioned.

*Surrender by persons vested with the administration of the estate of others.*

3. And be it enacted, that it shall, in like manner, be lawful for the supreme or any circuit court, or for the chief justice, or any other of the judges of the supreme court, upon the like petition of any person legally vested with the administration of the estate of any person deceased, or of any person legally or actually incapable of the administration of his estate, situated within this colony, stating the insolvency of such estate, or upon the like petition stating the insolvency of the estate of any company trading or having an estate or effects within this colony, made by the greater number of the partners of such company, who, at the time of presenting the petition, are within this colony, to examine the petitioner or petitioners, or cause him or them to be examined in manner aforesaid, or to take or cause to be taken proof of the matters aforesaid, in manner herein before provided. And it shall be lawful for the judge before whom such examination is taken, or for the chief justice, or any judge of the supreme court, on considering the report of any commissioner of the said court, made in the manner aforesaid, upon proof of the matters aforesaid to his satisfaction, to accept the surrender of any such estate, and to place the same under sequestration in manner aforesaid. And after the order for any such sequestration is made, the like proceedings shall and may be had and take place concerning such estates, and the persons in whom the administration thereof is legally vested, and the partner or partners of such companies, as are herein provided concerning other estates and other insolvents.

*What shall be deemed acts of insolvency, and who considered insolvent persons.*

4. And be it enacted, that if any person having any property, moveable or immoveable, personal or real, within this colony, shall depart therefrom, or being out of this colony, shall remain absent therefrom, or shall depart from his dwelling house, or otherwise absent himself, with intent to defeat or delay his creditors in obtaining payment of their debts; or having against him



the sentence of any competent court, being thereunto required, shall not satisfy the same, or shall not point out to the officer charged with the execution thereof, sufficient disposable property to satisfy the same : if it shall appear from the return made by such officer, or his affidavit, that he has not found sufficient disposable property of such person to satisfy such sentence ; or shall make, or cause to be made, either within this colony or elsewhere, any alienation, transfer, gift, cession, delivery, mortgage, or pledge of any of his goods or effects, moveable or immoveable, personal or real, with intent, or in such manner as, to defeat or delay his creditors in obtaining payment of their debts, or with intent to prefer one creditor before his other creditors, such person shall be deemed thereby to have committed an act of insolvency.

*In what cases lawful for the judges to place estate under sequestration.*

5. And be it enacted, that it shall and may be lawful for the supreme or any circuit court, or for the chief justice of this colony, or any other of the judges of the supreme court, upon petition made in writing against any person having committed any act of insolvency, by any creditor or creditors whose debt or debts amount to the value hereinafter provided, and setting forth the amount of the debt of such creditor and the cause thereof, and the alleged act of insolvency, and praying that the estate of such person may be sequestrated for the benefit of his creditors, upon proof thereof to the satisfaction of the said judge, provided there shall be produced to the said judge, together with such petition, the affidavit or affidavits, and certificate hereinafter required, by order, under his hand, to place the estate of every such person or persons under sequestration, in the hands of the master of the said court, until the same shall, in manner hereinafter mentioned, be adjudged to be sequestrated, or the said petition shall be discharged.

*As to nature and amount of petitioning creditor's debt.*

6. And be it enacted, that no estate shall be placed under sequestration, unless the debt of a single creditor petitioning that the same may be sequestrated, shall amount to *fifty pounds*, or unless the debts of two or more creditors so petitioning, shall jointly amount to *one hundred pounds*. And every person who is the creditor of another, upon valuable consideration, for any sum payable at a certain time, which time shall not have arrived when the act of insolvency was committed, may so petition, or join in petitioning as aforesaid, whether he shall have any security for the same or not.

*As to affidavit by petitioning creditor of his debt, before presenting petition.*

7. And be it enacted, that every petitioning creditor shall,

before presenting any petition for having any estate placed under sequestration, make an affidavit in writing before one of the judges of the supreme court, or a commissioner of the said court appointed to take affidavits, (which affidavits shall be filed with the proceedings in the estate,) of the truth of his debt and the cause thereof; and shall likewise give security, to the satisfaction of the master of the supreme court, or of the resident magistrate of the district in which such petition shall be presented, for payment of the necessary fees and charges for prosecution of the said sequestration, until the choice or appointment of trustees. And the master of the said court, or resident magistrate, as the case may be, shall forthwith endorse on every such petition, a certificate that such security has been found, and shall sign the same.

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*Who liable to the costs under sequestration until and after the election of trustees, and in case proceeds insufficient.*

8. And be it enacted, that the creditor or creditors on whose petition any order for sequestration shall be made, shall, at his or their own cost, prosecute all the proceedings in the said sequestration, until the election or appointment of trustees in manner hereinafter mentioned; and the same having been first taxed and ascertained by the master, the said trustees shall reimburse the said creditor or creditors out of the first money that shall be received. And the costs incurred under any sequestration, after the election or appointment of trustees, in rendering any part of the insolvent estate over which any creditor shall hold any special mortgage, pledge, hypothec or lien available for the payment of the debt thereby secured, shall be paid out of the proceeds of the property over which any such security extends, when the proceeds shall be sufficient for the same; and when the proceeds shall be insufficient, such creditor shall be personally liable for the same. And no creditor holding any such security shall be liable to pay, or to have deducted from the proceeds of any such property, any part of the costs of sequestration incurred for any other purpose: and all costs incurred previous to the election or appointment of trustees as aforesaid, in all cases in which upon the petition of the insolvent any estate has by order been placed under sequestration, together with all costs incurred in every case of the sequestration of estates as insolvent, (whether the same has been ordered, or petition as aforesaid is adjudged, at the instance of the creditors,) for any other purpose than as aforesaid, after the election or appointment of trustees as aforesaid, shall, in the first place, and before any other debt, be paid out of the free residue of the insolvent estate when it shall be sufficient for the same: and when the said free residue shall be insufficient for the payment thereof, all the creditors who have proved against the insolvent

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estate debts not secured as aforesaid, shall be personally liable for the same, in proportion to such debts. Provided however, that no person shall, by merely proving a debt, or receiving a dividend, or appearing or voting at a meeting of creditors as a creditor, be so liable for any claim by any person employed by the trustee in relation to any action or suit at law affecting the said estate, or for any portion of the compensation or remuneration of the trustee for his care and diligence, reserving always, to every person employed by the trustee, such recourse against the said estate or the said trustee as may be competent to him, and reserving also to such trustee recourse against the said estate and against such creditors thereof, or others, as may on other grounds be liable to such recourse.

*Sequestration of the estate of a company, or of partners.—Proceedings against the separate estate of partners.*

9. And be it enacted, that any creditor or creditors of any company may, in like manner as aforesaid, petition against the partners of any such company, to have the estate of such company placed under sequestration; in case any such company have, by any one or more of its partners, committed any act of insolvency, with intent or in such manner as to defraud the creditors of such company, or to defeat or delay them in obtaining payment of the debts due by such company; or provided the sentence of any competent court has been obtained against such company, and the partners thereof, being thereunto required, have not satisfied the same, or pointed out, to the officer charged with the execution of such sentence, sufficient disposable property to satisfy the same; and provided it shall appear from the return made by such officer, or his affidavit, that he has not found sufficient disposable property of such company to satisfy such sentence; and every order for sequestration issued upon such petition shall be valid, although it do not include all the partners of the company. And after the order for sequestration of such estate is made, the like proceedings shall and may be had and take place concerning such estate, and such partner or partners, as are herein provided to be had and take place concerning other estates and other insolvents: Provided always, that nothing herein contained shall extend, or be construed, to prevent the creditor or creditors of any company from proceeding against any partner, or the separate estate of any partner thereof, in respect of debts due by such company, in the same way in which it is herein provided that the creditors of any person may proceed against him and his estate, in respect of debts due by such person in his individual capacity. And provided, also, that it shall be lawful, upon such petition and proof as last aforesaid, and such other proof, if any, as may be required, to include in the same order for sequestration,



(should the chief justice or other judge aforesaid making the same see fit so to do) as well the separate estate or estates of any partner or partners of any company as the joint estate of such company. But the separate estate of a partner shall not be entered upon or attached by virtue merely of an order for the sequestration of the estate of the company to which such partner belongs, and when any separate estate or estates shall be included together with the estate of the company in the same order for sequestration, the creditors of the separate estate or estates, and of the estate of the company respectively, shall, together and indifferently, vote in the election of the trustee or trustees, and in all matters relating to the said estates so included, in the same order just as if the debt of every such creditor were due and owing by one single and undivided estate. Provided always, that the trustee or trustees of any sequestrated estates so consolidated, and the trustee or trustees of every joint and separate estate which may be included, as aforesaid, in the same order for sequestration, shall be bound to keep separate and distinct accounts of the joint estate and of each separate estate, and shall rank the respective creditors, and frame the account and plan of distribution hereinafter mentioned, and award dividends, and generally dispose and arrange the respective rights and claims of the consolidated estate, and settle the affairs thereof according to the provisions hereinbefore in that behalf set forth, precisely as if each of the consolidated estates were under a separate administration.

*Sequestration by creditor of estates under legal administration of other persons committing any act of insolvency.*

10. And be it enacted, that any creditor or creditors of the estate of any person deceased, or of any person legally or actually incapable of the administration of his estate, situated within this colony, may, in like manner as aforesaid, petition to have such estate placed under sequestration as insolvent, provided the person in whom the administration of such estate is legally vested, has either in his individual or in his fiduciary capacity, committed any act of insolvency, with intent, or in such manner, as to defraud the creditors of such estate, or to defeat or delay them in obtaining payment of the debts due by such estate; or provided the sentence of any competent court has been obtained against any such estate, and the person in whom the administration thereof is legally vested, has not satisfied the same, or, being thereunto required, pointed out to the officer charged with the execution of such sentence, sufficient disposable property to satisfy the same; and provided it shall appear, from the return made by such officer, or his affidavit, that he has not found sufficient disposable property belonging to such estate to satisfy such sentence; and after the order for

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any such sequestration is made, the like proceedings shall and may be had and take place concerning such estates and the persons in whom the administration thereof is legally vested, as are herein provided to be had and take place concerning other estates and other insolvents.

*Liability and privileges of the partners of any company, or of others administering estates.*

11. And be it enacted, that every privilege and power given by this ordinance to any creditor, in respect of any debt due to him individually by any insolvent, and every liability or penalty imposed by this ordinance on any such creditor, shall be, and is hereby declared to be, given to and imposed on the partner or partners of any company in respect of any debt due to such company by any insolvent, and to be given to and imposed on every person legally vested with the administration of the estate of any person deceased, or of any person legally or actually incapable of the administration of his estate, situated within this colony, in respect of any debt due to such estate, by any insolvent: Provided always, that, in reckoning the number of votes at any meeting of creditors, or the number of creditors who have signed the certificate of any insolvent, the partners of any company, and any persons in whom the joint administration of any estate is vested, as aforesaid, shall be entitled to only one vote, and shall be considered as one person.

*Lodging with sheriff the order of sequestration and other proceedings thereon.*

12. And be it enacted, that the party obtaining any order for sequestration shall forthwith lodge the same with the sheriff of this colony, at his office in Cape Town, or with the deputy sheriff of the district in which such order has been obtained, and the said sheriff or deputy sheriff shall enregister the said order, and note thereon the day and hour of its production, and the deputy sheriff shall forthwith deliver, or cause to be delivered, to the sheriff, at his office in Cape Town, every order lodged with him, after the same shall have been enregistered as aforesaid; and the sheriff shall at his said office enregister every such last mentioned order, and note thereon the day on which he received the same, and the sheriff shall forthwith deliver, or cause to be delivered, to the master of the supreme court, every order as aforesaid, whether lodged with himself or received from any deputy, and the said master shall, when the order has been made at the instance of creditors, cause the same to be notified in the *Government Gazette* of the colony; and every insolvent obtaining any order for sequestration shall also lodge with the master of the supreme court, a list, containing, to the best of his knowledge and belief, the names and places of abode of his several creditors.

*Attachment upon the estate, and how to be made.*Ordinance  
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13. And be it enacted, that the master of the supreme court, upon any estate being placed under sequestration in his hands, shall by his messenger enter and lay an attachment on the estate, under inventory thereof; and, when the same shall be sequestered upon the petition of any creditor, the said messenger shall be accompanied by the petitioning creditor, or some one authorised by him, on behalf of himself and the other creditors of the said estate; and when the said estate shall be sequestered upon the surrender of any insolvent, it shall be lawful for any of the creditors, or for the agent of any of the creditors of the insolvent, to accompany the messenger, and to be present with him while making out the inventory aforesaid.

*Attachment of moveable property, how to be made, and as to Penalty for defeating same.*

14. And be it enacted, that, when any moveable property belonging to any insolvent estate is attached as aforesaid, in virtue of any order for the sequestration thereof, the messenger making such attachment shall leave with the person in whose possession any such property is attached, a copy of the said inventory, having subjoined thereto a notice, both in the English and Dutch languages, that the property therein specified has been attached by the said messenger, by virtue of an order for the sequestration thereof: and that any person who, knowing the same to have been so attached, shall dispose of, remove, conceal, or receive the same, or any part thereof, with intent to defeat the said attachment, is liable, on conviction of such offence, to be transported for any period, not exceeding seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years: Provided always, that it shall be lawful for such messenger to secure on the premises, by sealing up any repository, room, or closet, any articles which, in the discharge of his duty, it shall seem to him expedient so to secure, causing no unnecessary hindrance or inconvenience to any party by so doing: or to leave some person on the premises in custody thereof, and the said messenger shall forthwith report his execution of the said attachment to the master of the supreme court, who shall take such measures, and give such directions for the safe custody of the said property as to him shall seem fit.

*Resident magistrates to aid under rule of court.*

15. And be it enacted, that the resident magistrates of this colony, in their respective districts, shall aid and assist in carrying this ordinance and the provisions thereof into effect; and, for that purpose, shall do and execute all such matters and things as they shall be required to do and execute by any rule or order of the supreme court by virtue of this ordinance.



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*Sheriff, deputies, and messengers, to execute duties of messenger.*

16. And be it enacted, that the sheriff of this colony, either by himself or by his deputy, and the messengers of the courts of the resident magistrates, being thereunto required by the master of the supreme court, shall, within the districts in which they have respectively been appointed to act, do and execute the duties directed by this ordinance, or by any rule or order of the supreme court in pursuance of this ordinance, to be done and executed by a messenger: and shall receive to their own use for such service, out of the assets of any insolvent estate as to which they may be so employed, such reasonable fees as are, or shall be, allowed by the supreme court for their service.

*Summons to debtor upon order of sequestration, and as to service thereof.*

17. And be it enacted, that it shall and may be lawful for every petitioning creditor who shall duly obtain any order for placing the estate of his debtor under sequestration, thereupon to take out the process of the supreme court, to summon the debtor that he appear before the supreme court, or the circuit court of the district within which the debtor's ordinary place of residence is, on a certain day, to be appointed by the judge making such order, as to the said judge shall seem fit, to shew cause why his estate should not, by sentence of the said court, be adjudged to be sequestrated for the benefit of his creditors; and the service of the said process shall be made in the same manner as is or shall be by law provided for the service of any other process of the said court: provided, that, if any debtor has been forty days absent from his usual place of residence or business within the colony, copies of the said summons shall also be affixed upon the outer door of the supreme court, and inserted in the *Government Gazette* of this colony.

*Court to adjudge, if order of sequestration is to be confirmed or otherwise: and effect thereof.*

18. And be it enacted, that, upon the day appointed for any person to shew cause why his estate should not be adjudged to be sequestrated, it shall and may be lawful for the court to receive proof of the matters aforesaid, and to adjudge thereon, whether the said person having been thereto lawfully summoned, shall appear to the said summons or not; or upon sufficient cause being shewn to their satisfaction, to delay the said adjudication for any reasonable time, at their discretion. And, if the petitioning creditor shall make default in appearing or proving his said debt or the act of insolvency to the satisfaction of the court, it shall and may be lawful for the said court to supersede the said order for sequestration, and to dismiss the said petition, or to require further proof of the matters contained therein, as to

the said court shall seem fit. And whenever any such petition shall be dismissed by the said court, all questions affecting the estate of any person against whom it was presented, or any right of such person, or of his creditors or debtors, or the validity of any alienation, transfer, gift, cession, delivery, mortgage, pledge, payment, acquittance, surrender or discharge, made by such person, or payment made to such person, shall be judged of and determined as if such petition had never been presented.

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*If petition unfounded or malicious.*

19. And be it enacted, that if it shall appear to the court before whom any person has been so summoned upon such petition for sequestration, that the said petition was unfounded, and vexatious, or malicious, it shall and may be lawful for the said court to allow the said person, on his application for the same, forthwith to prove any damage alleged to have been by him sustained thereby, and to award to the said person such satisfaction for the said damage, as the said court shall deem fit, or otherwise to leave the said party to his action for the said injury.

*Sequestration revived by other creditor, and effect of, though superseded, as to original petitioning creditor.*

20. And be it enacted, that if, after any order has been made for the sequestration of any estate, the debts of the petitioning creditors, or any of them, be found insufficient to entitle such creditors to apply for and obtain such order for sequestration, or if such order shall be superseded in consequence of the consent or default of the petitioning creditor or creditors, or his or their collusion with the insolvent, it shall be lawful for the supreme court, or such circuit court as aforesaid, upon the application of any other creditor or creditors whose debt or debts amount to the value herein before provided, and have been incurred prior to the said order for sequestration, and who shall produce at the time of making such application, the affidavit or affidavits, and the certificate herein before required, to order that the said sequestration shall be revived and be proceeded in, as if it had been originally obtained on the petition of the creditor or creditors last mentioned; and thereafter, the said sequestration shall be revived with all the consequences and effects thereof, as if it had never been superseded; save only, that when the sequestration shall be revived after the same shall have been superseded, the validity of every alienation, transfer, gift, cession, delivery, mortgage, pledge, payment, acquittance, surrender and discharge made by such insolvent, and every payment to and dealing with the said insolvent, between the time of the superseding of the order for sequestration and the time of the making of the order for reviving the same, shall be judged of and decided upon, on such and the like grounds and principles, and no other, as

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would by law have been applicable to the same in case such order for revival were a primary and original order for sequestration.

*As to payments, &c. or security from insolvent to petitioning creditor, after order for sequestration.*

21. And be it enacted, that if any person against whom any order for sequestration has been made, shall pay any money to the person who obtained the same, or give or deliver to any such person any satisfaction or security for his debt, or any part thereof, whereby such person may receive more in the pound in respect of his debt, than he would be entitled to receive if the sequestration were proceeded in, and the estate distributed among the creditors thereof, according to their legal rights and preferences, such payment, gift, delivery, satisfaction, or security, shall be a new act of insolvency. And every person so receiving such money, gift, delivery, satisfaction, or security, shall, in the event of the sequestration being afterwards proceeded in by any other creditor or creditors, in manner hereinbefore mentioned, or of a new order for sequestration being issued upon such new act of insolvency, deliver up such security, and shall repay the said money, gift, or the full value thereof, to such person or persons as the court shall appoint, for the benefit of the creditors of such insolvent, and shall pay all the costs which shall be incurred by any other creditor in obtaining the revival of the said sequestration, and shall forfeit the whole of the debt due and owing to him by such insolvent.

*Effect of the order of sequestration upon judgments.*

22. And be it enacted, that further execution of any judgment against any insolvent, or his estate, for the amount of any debt or sum of money, shall after any order for sequestration of such estate is lodged with the sheriff, or any such deputy sheriff, as aforesaid, for registration, be stayed during the pendency of such sequestration, and the insolvent, if in prison in virtue of any decree of civil imprisonment given in respect of any judgment, debt, or costs, or any order for committal made in respect of disobedience to any order for the payment of money made in any civil suit or proceeding, may be released from his imprisonment, in so far as the same is occasioned by reason of any such decree, order, or arrest as aforesaid, by the order of the supreme court, or of any judge thereof, or of any circuit court, in case such court or judge shall not see cause to refuse to make such order, shall be discharged therefrom. And it shall and may be lawful for the person having right to such judgment, to prove the debt, and costs secured thereby, against the sequestered estate, and to take the benefit thereof upon distribution of the said estate; and where any property has been attached by



legal process for satisfaction of any judgment, and has not been sold, or having been sold, the proceeds thereof remain undistributed in the hands of the sheriff or other officer of the law, such property or such proceeds shall be placed under sequestration in the same manner as any other part of the insolvent estate, and the person holding such judgment, shall, on the distribution of the said estate, be entitled to be preferred over the proceeds of the property attached or sold, as the case may be, at the time of the lodgment with the sheriff or deputy sheriff, of the order aforesaid, for the costs incurred by him, for and in respect of the writ of execution, and the execution of the same, but not for the amount of his judgment debt, or of his costs of suit by him incurred before the suing out of such writ of execution.<sup>(1)</sup>

*Effect of the order of sequestration upon actions against insolvent.*

23. And be it enacted, that all actions pending against any insolvent for any debt or demand proveable against his estate, and all proceedings therein, shall, upon any order being made for the sequestration of such estate, in virtue thereof, be stayed: and the insolvent, if in prison under any arrest granted in security of any debt or demand in regard to which any such action shall have been instituted, may, by the authority and under the condition in the last preceding section mentioned, be discharged therefrom, and it shall and may be lawful for the plaintiff in such action to prove his debt, together with the taxed costs of suit then incurred against the sequestrated estate, and to take the benefit thereof upon distribution of the said estate: provided, however, that all actions pending against any insolvent for damages alleged to have been sustained from any injury or wrong, or breach of any contract, committed by him, such damages being uncertain, or for recovery of any claim unliquidated as to its amount, and all proceedings therein, shall, upon any order being made for the sequestration of his estate, be stayed until a trustee shall be elected for the administration thereof, if the sequestration shall remain in force so long; and thereupon, the plaintiff in such action, after summoning the trustee to take up and defend the said action, may proceed to obtain the judgment of the court thereon, and the said judgment, when recovered, together with the taxed costs of suit, shall be a debt proveable against the said estate.

*Effect of the order of sequestration upon actions commenced by insolvent.*

24. And be it enacted, that all actions commenced by any person whose estate shall afterwards be placed under sequestration as insolvent, for any debt or demand due to the said estate and all proceedings therein, shall, upon the order for such sequestration being made, be stayed, until the trustee thereafter

(1) *Vide supra* Ordinance No. 30, 1844.

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chosen for the administration of the said estate shall make election to prosecute or discontinue the same, and the trustee shall be bound to make such election within six weeks after notice to that effect shall be served upon him by any defendant in any such action, or otherwise shall be deemed to have abandoned the same. Provided, however, that any insolvent shall be permitted to continue, in his own name and for his own benefit, any action commenced by him previous to his insolvency, for any personal injury or wrong done to himself, or any of his family, and any damages which may be recovered in any such action shall not go or belong to the insolvent estate, nor shall any property proved to have been purchased or obtained by the insolvent with any such damages.

*Appointment and notice by the master, of two public meetings of creditors—for proof of debts—and election of trustees.—Proceedings in cases where effects do not exceed the value of £75.*

25. And be it enacted, that the master of the supreme court shall, after any estate has been placed under sequestration, upon surrender thereof as insolvent, or has been adjudged to be sequestrated, forthwith cause notice thereof to be given in the *Government Gazette* of this colony, and shall thereby appoint two public meetings of the creditors of such estate, at such times and places as he shall deem most convenient for all the parties concerned, the first for receiving proof of debts against the said estate, and the second for the same purpose, and for electing a trustee for the collection, administration, and distribution thereof. And such publication shall be deemed notice thereof to all persons who may reasonably be presumed to have seen the same. And the times and places so fixed for the holding of any of the meetings aforesaid, may, on cause shown to the said master, or to the supreme court, by any party dissatisfied with the appointment made by the said master, be altered; of which alteration notice shall be forthwith given in the *Government Gazette*. Provided always, that if it shall appear to the said master, before causing notice to be given as aforesaid, that the goods and effects of the insolvent available for the payment of his debts are not the value of *seventy-five pounds* sterling, he shall specify the same in the said advertisement: and shall therein also give notice, that unless it shall be shown at the first meeting, called as aforesaid, that the goods and effects of the insolvent exceed the value of *seventy-five pounds* sterling, the master, or resident magistrate holding such meeting, will summarily proceed to rank the debts which shall be proved at such meeting, according to their respective preferences, and to direct the proceeds of the insolvent estate to be forthwith distributed accordingly, by a trustee to be then elected by the greater part of the creditors in number and value attending at such meeting. And in such

case, the said insolvent shall at such first meeting attend before the creditors to account for his insolvency, and shall, being thereunto required, do and perform thereat all such other matters and things as are hereinafter required to be done and performed by him at any meeting of creditors, under the provisions of this ordinance. And if at the said first meeting, which meeting may be adjourned from time to time, if the said master or resident magistrate shall deem it necessary to adjourn the same, it shall still appear to the said master or resident magistrate, as the case may be, before whom the same is holden, that the available assets of the said estate do not exceed the amount of *seventy-five pounds* sterling, it shall and may be lawful for the said master or resident magistrate to rank the creditors who shall prove their debts at such meeting, according to the legal order of their preference, and for the creditors to elect a trustee for the collection, administration, and distribution of the estate of the said insolvent according to the order of ranking; and to direct the said trustee forthwith to collect, administer, and distribute the same accordingly, And further at the said first meeting the said master or resident magistrate shall and may respectively execute all the powers and authority which may be executed by them at any meeting of creditors under the provisions of this ordinance, and shall also do and perform thereat all matters and things required to be done for the final settlement of the said estate. And the creditors present at the said first meeting shall then determine what part of the wearing apparel, bedding, household furniture, and tools of trade of the insolvent shall be excepted from the sale of his moveable property, and shall be allowed to him; and shall also give to the said trustee such directions as to the management of the said estate as to them shall seem fit. And no other meeting shall be thereafter holden, unless upon cause shown to the said master by any trustee or creditor of the said estate, the said master shall think fit to order the same.

*Where meetings of creditors to be holden.*

26. And be it enacted, that in all cases where any meeting of creditors for the proof of debts or for the election of trustees shall be appointed to be holden in Cape Town, the same shall take place before the master of the supreme court; and if in any district of the colony other than the Cape district, then before the resident magistrate of such district, under the direction of the said master; and the said master or resident magistrate shall respectively take the votes of the creditors, and declare the party so elected trustee of the said estate; and in all cases where such meeting shall be holden before the resident magistrate of any district, he shall forthwith certify to the said master the proceedings thereat.



*Proof of debts.*

27. And be it enacted, that every creditor shall prove his debt against the said estate to the satisfaction of the master or resident magistrate, as the case may be, who shall admit any debt, or reject the same as not proved. And every creditor shall prove his debt by affidavit, which shall be sworn before the master or resident magistrate, or some commissioner appointed by the supreme court for taking affidavits, or some justice of the peace, and which shall state the nature of the alleged debt, and when such debt accrued originally to the deponent himself, that the same is a just, true, and lawful debt, and, when such debt has accrued to the deponent by cession, or otherwise, from any other person, then that the said debt is a just, true, and lawful debt, to the best of the deponent's knowledge and belief, and such affidavit shall state what other persons, if any, are, besides the insolvent, liable for the said debt or any part thereof, or that there are no such persons so liable, and shall state all pledges or security which the deponent, or any person for his use, holds from the insolvent for the said debt or any part thereof, and shall depose to the genuineness of all vouchers or evidences of debt which the deponent shall produce with his said affidavit. Provided always, that it shall be lawful for the said master or resident magistrate, in case he shall find that any clerk, agent, or other person is more fully cognizant of the nature of the debt sought to be proved than the creditor is, to allow such clerk, agent, or other person to swear the affidavit aforesaid, with such alterations as will thereby become necessary. And provided that any creditor who is out of or absent from this colony may, in case he have no known agent or mandatory in this colony, cognizant of and capable of proving the alleged debt, make the necessary affidavit before some person duly qualified to administer oaths in the place where he resides, such person being certified to be so qualified by some sufficient authority in that behalf, should such creditor reside or be in any part of Her Majesty's dominions, and if such creditor should reside or be elsewhere than in those dominions, then the said person shall be certified as aforesaid by a British minister or a British consul, or by a notary public; and provided that it shall and may be lawful for the supreme court, or any circuit court, on the application of any party interested, finally to admit or reject any debt admitted or rejected by the said master or resident magistrate, or to allow any action, which may have been instituted for the proof or recovery of any such debt against the insolvent, prior to the sequestration, and which has, in consequence thereof, been stayed, to be proceeded in after the election of a trustee shall have taken place, and after the trustee so elected shall have been duly summoned to take up and defend such action ;

and if the plaintiff shall thereafter obtain judgment thereon, he shall be ranked on the insolvent estate for the amount of such judgment. And provided also, that any such court as aforesaid, before adjudging finally as to the admission or rejection of any debt, may remit such case to the master or resident magistrate for further proof, or may direct any question of fact to be tried by pleadings and proofs, or adopt such other course as to such court shall seem fit.

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*What debts proveable in cases of mutual credits.*

28. And be it enacted, that all debts due by any insolvent at the time of adjudication or surrender, may be proved against his estate; and when there has been mutual credit given by the insolvent and any other person, upon which compensation can by law be pleaded on either side, the master of the court, or resident magistrate, taking the proof of debt, shall thereupon state the account between them, and shall set one debt or demand against the other; and what shall appear due on either side on the balance of such account, and no more, shall be allowed to be proved or claimed, or paid on either side respectively; provided, that the person claiming the benefit of such set off, had not, when such credit was given, or when the cause of his debt accrued, notice of the order for sequestration having been made, or of any act of insolvency in virtue of which such order shall have been made; and provided always, that it shall and may be lawful for the supreme court, on the application of any person interested, who shall consider himself aggrieved by any such decision of the said master or resident magistrate, to review the same, and to pronounce such judgment, or to direct or allow such further proceedings, as to the court shall appear just and proper.

*Debts payable at a future time proveable on a rebate of interest, and as to votes of such creditors.*

29. And be it enacted, that in all questions upon this ordinance, every person to whom the insolvent was, at the time of the surrender or adjudication or sequestration of his estate, under any legal obligation to pay money, at a certain future time, shall be accounted creditor *de presenti*, and shall be entitled to prove his debt for the amount of the money specified in the obligation. But in case the said debt shall not have become payable at the date of the order for sequestration, and shall not bear interest until the term of payment, or shall bear interest at a less rate than six pct. per annum, the said debt shall be valued in voting, and such creditor shall receive payment thereof, or dividend thereon, only after deduction thereout of a rebate of interest of six pct. per annum, or of so much pct. per

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annum as shall correspond with the difference between the rate of interest payable on such debt and the rate of six pct per annum, as the case may be,—to be computed from the date of the order for sequestration to the time when such debt would have become payable according to the terms on which it was contracted.

*Proof by creditor holding a preferable security or lien.*

30. And be it enacted, that any creditor who shall hold a preferable security or lien upon any part of the insolvent estate, shall, when he is the petitioning creditor, be obliged upon oath, in the affidavit accompanying the petition, and when he is not the petitioning creditor, in the affidavit produced by him at the time of proving his debt, to put a value upon such security, so far as his debt may thereby be covered, and to deduct such value from the debt proved by him, but shall have the right to vote for trustees and commissioners, and in all matters regarding the property over which he shall have such security or lien, both in number and value for the full and entire ammount of his debt, and in all other matters respecting the insolvent estate he shall vote as creditor only for the balance; which balance shall be specified in his affidavit, without prejudice to such valuation being afterwards corrected, and without prejudice to the amount of the said debt, in other respects: And, in case any creditor shall hold any perferable security or lien for payment of his debt, obtained prior to the order for sequestration of the insolvent estate, and not liable to be set aside in virtue of this ordinance, upon any part of the said estate, the amount or value of such security or lien shall be deducted from his debt, and he shall only be ranked for, or receive payment of, or a dividend for, the balance after such deduction; and if any dispute shall arise about the value of such security, the creditor or claimant shall, upon oath, put a value upon it, and the trustees shall then have an option, either of taking an assignment of the security for the benefit of the creditors at large, on payment of the value so estimated out of the first assets of the insolvent estate, or of reserving the full effect of it to the creditor himself; and, in either case, the creditor shall be ranked on the divisible fund for the balance of his debt so ascertained, together with the other creditors, such creditor being, in no event, entitled to draw more than full payment of the debt, but being, at the same time, entitled to vote both in number and value, according to the provisions and within the limits hereinbefore set forth.

*As to proof of debts, upon a contingency or condition valued by trustee, or after the event, and how dividend to be secured.*

31. And be it enacted, that no person whose debt depends upon a contingency or an uncertain condition, shall be entitled to petition, or join in the petition, for sequestration of any estate,



or to vote in the choice of trustee, or any of the other proceedings herein specified, so long as the contingency shall not happen, or the condition shall not be performed. Provided always, that the creditor in any such debt, contracted before the order for sequestration shall have been made, may, if he think fit, while the contingency or condition upon which such debt depends shall not have happened, or shall not have been performed, apply to the trustee to set a value upon such debt; and the trustee is hereby required to ascertain the value thereof, and to admit such creditor to prove the amount so ascertained; and such creditor shall thereafter be entitled to vote, and to receive dividends or payment, as in respect of a debt of the value of the amount so ascertained; but whether such value shall or shall not be so ascertained, before the contingency shall have happened, or the condition shall have been performed, such creditor may, whenever such contingency shall have happened, or such condition shall have been performed, prove in respect of his whole debt, and receive dividends or payments thereon with the other creditors. Provided always, that, when the creditor in any such debt or claim, the contingency of which shall not have happened, or the condition of which shall not have been performed, and the value of which shall not have been ascertained as aforesaid, shall enter a claim on the estate in respect of such debt, the trustee shall rank the claimant as if the contingency had happened, or the condition had been performed; and shall forthwith apply to the supreme court to make an order, and the said court shall make such order, for securing the dividend or sum which the claimant would be entitled to draw, until the contingency or condition upon which the debt depends, shall happen or be performed, or until it shall have become certain, that such contingency or condition shall never happen or be performed when the sum so secured shall be paid to the claimant, or to the other creditors, as the case may be; and any interest which may, in the mean time, arise and be received thereupon, shall belong to and be paid to the other creditors. And provided also, that the holder of any such contingent debt or claim, of which the value shall not have been ascertained, and who has been ranked as a claimant as if the contingency had happened or the condition been performed, shall, for the purpose of agreeing to or dissenting from any offer of composition, or the certificate of the insolvent as hereinafter mentioned, be deemed and taken to be creditor for whatever sum the master of the supreme court shall, under the circumstances of the said debt, fix and allow, subject to appeal from his decision to the supreme court.

*As to securing to claimants debts which may eventually be established.*

32. And be it enacted, that, when by reason of the absence of any person from this colony, or for any other cause appear-

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ing to the supreme court, the said court shall be of opinion, that a claimant who has not proved a debt to the satisfaction of the court, may eventually be able to establish the same, it shall and may be lawful for the said court to allow such claim to be entered on the proceedings in the insolvent estate, and to give reasonable time for proving the same; and in the mean time to make such order for securing the amount thereof, in case the said claim shall be afterwards established, as the said court shall see fit.

*Mode of settling interest upon claims.*

33. And be it enacted, that the mode of settling claims and the interest upon them shall be as follows, viz: The principal sum of each debt on which interest is chargeable, together with the arrears of interest, if there be any due upon it, at the time the order for sequestration was made, shall be accumulated as at the date of the said order, for the purpose of the claimant being ranked for, and receiving payment of, such accumulated sum, together with the principal sums of such debts as do not bear interest, or from which there may be a rebate of interest, as not being payable till an after period; and the assets of the insolvent estate shall be applied,—1st. In payment, according to the legal order of preference, of all the preferent debts, and the interest which shall have been due thereon prior to the date of the said order, to the extent to which such interest is, by law, entitled to a preference; and every creditor shall have the same preference for the interest which shall have accrued on his debt between the date of the said order and the time of payment, to which he may be entitled for any part of the interest which may have become due prior to the said order. And, 2dly, in payment of all the other accumulated sums so ranked, without allowing any interest upon them from and after the date of the said order, if the said assets shall not be sufficient to discharge all the claims due to the insolvent estate; but if, after discharging the whole of such claims, there shall be any residue left of the sequestrated estate, the creditors as well as those from whom interest has been deducted on account of the provisions of the 29th section of this Ordinance, as all others, shall be entitled to claim, out of such residue, any arrear of interest which may be due on them, as arising since the date of the order for sequestration, upon the respective sums ranked as hereinbefore mentioned.

*Mode of ranking creditors of joint and separate estates.*

34. And be it enacted, that in every case in which it shall happen that the estate of any company, and the estate or estates of any one or more of the partners of such company, shall be concurrently under administration as insolvent,—the creditors of

the said company shall prove their debts against, and rank upon the estate of the company, and the creditors of each partner, in respect of debts due by such partner separately from the other partners, shall prove their debts against and rank upon the estate belonging to their debtor separately from the other partners, and the estate of the company shall be first applied in satisfaction of the creditors of the company, and each separate estate shall be first applied in satisfaction of the separate creditors of that estate. And if the estate of the company shall prove insufficient to satisfy the creditors of the company, or if there be no such estate, then each creditor of the company shall rank upon the surplus of each separate estate, which may remain after satisfying the separate creditors of that estate, either for the residue or entire of his debt, as the case may be, but so, however, as not to receive, in all, more than the whole of their debts respectively. And if the separate estate of any partner shall prove insufficient to satisfy the separate creditors who have claimed upon it, then the separate creditors upon that separate estate shall rank upon the surplus, if any, of the company's estate which shall remain after satisfying the creditors of that estate in proportion to the share in such surplus belonging to, or claimable in right of, the particular partner whose separate estate has so as aforesaid proved deficient. And whenever the company's estate shall prove insufficient to satisfy the company's creditors, and the latter shall thereupon receive satisfaction, wholly or in part, out of the surplus of the separate estate of any of the partners of such company, the trustee of the separate estate so satisfying, wholly or in part, any of the creditors of the company shall be entitled to rank upon the separate estate of any other partner of such company for amount of whatever the contribution in respect of the debts of the company wholly or in part discharged, such trustee may, by law, be authorized to claim. Provided, however, that no partner, if insolvent, and no trustee of the insolvent estate of any partner shall, under any circumstances, rank for the amount of any such claim for contribution, upon the insolvent estate of any other partner in competition or concurrence with any of the creditors of the company claiming upon any such lastmentioned estate, which creditors are hereby declared to be entitled to be paid in preference and priority to any such partner or trustee. And provided also, that nothing herein contained shall be construed so as to abridge or affect the rights which the creditors of any insolvent company may, by law, possess to seek satisfaction for their debts from any partner of such company whose estate shall not have been sequestrated, or to abridge or affect the rights which any such solvent partner may, by law, possess in regard either to the insolvent estate of the company or to that of any of his partners whose estate may have been sequestrated.

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*Joint creditor may prove on separate estate for certain purposes.*

35. And be it enacted, that in every case in which the separate estate of any partner of a company shall be sequestrated as insolvent, and whether the estate of such company shall also be or have been sequestrated or not, any creditor to whom the insolvent is indebted, jointly with the other partner or partners of the company, shall be entitled to prove his debt under the sequestration of such separate estate, for the purpose of voting in the election of trustees, and of agreeing to or dissenting from any offer of composition, and the certificate and discharge of the insolvent as hereafter mentioned, but no further. And such creditor shall not receive any dividend out of the separate estate of the insolvent until all the separate creditors shall have received the full amount of their respective debts; unless such creditor have been a petitioning creditor, in regard to the sequestration of such separate estate, in which case such creditor may vote and receive dividends in respect of his debt in the same manner as the separate creditor of such estate.

*English rule regarding joint and separate creditors to govern cases not provided for.*

36. And be it enacted, that, in every case not hereinbefore expressly provided for, and relating to the ranking and priority of the joint creditors of any company, in competition with the separate creditors of any of the partners of such company, or relating to the reciprocal claims of any such insolvent estates in reference to or in relief of each other, the rule for the time being in respect of the like case, according to the law and administration of bankruptcy in England shall first be resorted to, and failing any such rule, the common law of the colony shall be applied.

*Within what time and before whom debts are proveable and effect thereof, if dividend previously made.*

37. And be it enacted, that any debt which was due, or the cause of which arose prior to the order for sequestration of any estate, may be proved at any meeting of the creditors appointed before the master or a resident magistrate, at any time before the final distribution of the estate; and any creditor may, after the second meeting called by the master of the supreme court in manner hereinbefore provided, at his own expense call such meeting expressly for the purpose of proving his debt: Provided always, that when any debt is so proved after any dividend has been paid to the creditors, such dividend shall not in any way be disturbed or affected by or in respect of any such debt: and provided also, that when any such debt is proved after the plan of distribution of such estate has been confirmed, and in consequence of the proof of such debt, any alteration in such plan of distribution, or any further proceedings in the se-

questration shall be rendered necessary, the creditor proving such debt shall be liable for all expenses which may be incurred in consequence of any such alteration or proceedings.

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*What creditors entitled to vote in number, and what in value.*

38. And be it enacted, that in all cases of votes given by creditors under this Ordinance, when the creditors are to be counted in *number*, no creditor whose debt is below *thirty pounds* sterling shall be reckoned in number, but the debt due to such creditor shall be computed in value; and that, in all cases in which any deduction is directed, by the provisions of this Ordinance, to be made from the amount of the debt of any creditor, the vote of such creditor shall still be counted in value to the extent of the balance remaining after such deduction; and such creditor shall also be reckoned in number, provided such balance amounts to *thirty pounds*, and upwards.

*Creditors may vote by agent.*

39. And be it enacted, that in all cases where, under the provisions of this Ordinance, the creditors of any insolvent estate are required or entitled to meet and to vote in any matter regarding such estate, any creditor so entitled may attend and vote at such meeting personally, or by agent, authorized by any power of attorney to that effect duly executed, upon proof thereof to the satisfaction of the master of the supreme court, resident magistrate, or other person presiding at such meeting, and all questions at any meeting of creditors shall be determined by a majority in value of those present and entitled to vote, in case a majority both of number and value shall not, in respect of any such question, be by law specially required.

*As to choice of trustees, and how and when to be brought under review of court, and if fraudulently made.*

40. And be it enacted, that at the second meeting called as aforesaid, or any adjournment thereof, (if the said master or resident magistrate shall find it necessary to adjourn the same, which they are hereby authorized and empowered to do,) a trustee, or trustees, not exceeding three in number, shall be chosen for the collection, administration, and distribution of the insolvent estate and effects; and all creditors who have proved debts against the insolvent estate shall be entitled to vote in such choice; and creditors holding any preferable security or lien shall vote in manner and form hereinbefore provided; and the choice shall be made by the votes of the greater part in number and value of the creditors, or their agents present and entitled to vote: Provided, however, that it shall be competent to any person interested in any such insolvent estate, or the due administration thereof, and who shall complain of any such election, upon giving, within two days after the said elec-

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tion, a notice in writing of the particulars of such complaint to the said master or resident magistrate, as the case may be, at any time before the election is confirmed, in manner hereinafter mentioned, to bring the same under review of the supreme court, who shall, summarily or otherwise as such court shall see fit, decide and make such order thereon as the justice of the case may require: Provided always, that it shall be lawful for any person interested in the due administration of the estate, at any time after the confirmation, to apply to the court to recall the confirmation, and set aside the election, on the ground that such election was fraudulently or unduly made.

*Who incompetent to be appointed trustee.*

41. And be it enacted, that in no case shall it be competent for the creditors to elect as trustee, the insolvent himself, or any person related to the insolvent by consanguinity or affinity within the fourth degree, nor any minor, nor any attorney, nor any person who, having had his estate, at any time, placed under sequestration shall not have obtained the sequestration to be superseded, or who shall not have been rehabilitated under the provisions of the law heretofore in force within this colony, or shall not have obtained his certificate and allowance thereof, as hereinafter provided, nor any person not resident within the jurisdiction of the supreme court, nor any person having an interest opposed to the general interest of the creditors in the insolvent estate, nor any person declared to be incapable of being elected by virtue of the provisions in the next succeeding section contained.

*Acts of trustee entitling the court to set election aside and declare offender disqualified.*

42. And be it enacted, that if any person elected a trustee shall be proved, to the satisfaction of the supreme court, or of any circuit court holden for the district in which the election of trustee was had, to have procured or been privy to the omission from the schedule of the insolvent of the name of any creditor of the insolvent, with intent thereby to obtain some peculiar advantage in regard to the election of trustee, or to have, either directly or indirectly, given or promised to give to any creditor of the insolvent, any species of valuable consideration whatsoever, in order to obtain the vote of such creditor at the election of trustee, or to have agreed to secure and make good to any creditor some certain sum or dividend in discharge or diminution of his debt, upon condition or in order that such creditor should give his vote to such trustee; or to have offered or agreed, in case any creditor of the insolvent should consent to vote for such trustee, to abstain from opening up or investigating some previous transactions between such creditor and the



insolvent, which were, or were supposed to be, of questionable validity, or to have contrived, or been privy to, any plan or arrangement by which debts or securities really belonging to some one or more persons have been divided amongst a greater number of persons, for the purpose merely of increasing the number of votes at the election for trustee, and thereby influencing the same, or to have undertaken to share with any creditor or creditors of the insolvent, in return for his or their votes, the commission or remuneration to be awarded to him as such trustee;—then such supreme or circuit court as aforesaid, shall, whether before or after the decree confirming the appointment of such trustee, declare such trustee to have forfeited the office of such trustee in regard to the insolvent estate for which he shall have been elected, and to be incapable of being again elected thereto, and it shall and may be lawful for such court, if it should so think fit, to further declare that the person so offending shall be incapable of being elected a trustee under the provisions of this ordinance, for and during his natural life, or such period as such court shall determine and adjudge: and any person interested in the due administration of the insolvent estate may apply by motion to such supreme or circuit court as aforesaid, either before or after the decree confirming the appointment of any trustee, to declare any such trustee to have forfeited his office by reason of any such misconduct as aforesaid; and as often as a vacancy in the office of trustee shall be created by any such forfeiture, the court declaring the same shall order a new trustee to be elected, and the same proceedings shall be had thereon as on the original election of trustee.

*As to appointment by court of provisional trustee.*

43. And be it enacted, that it shall and may be lawful for the supreme court, or for any judge thereof on circuit, and whether sitting in any circuit court or not, on cause shown by the master of the said court, or any person interested in the due administration of the insolvent estate, by order of court to appoint one or more fit person or persons to be trustee or trustees of any insolvent estate provisionally, and until the creditors of the said estate shall make choice of a trustee; which trustee or trustees may be removed at the meeting of creditors for the choice of a trustee, if the said creditors shall think fit, but shall and may, until so removed, act in the collection, administration, and distribution of the said estate, in all respects the same as trustees elected by the creditors are, by this Ordinance authorized or required to do. Provided, however, that no such trustee or trustees shall proceed to make sale of any part of the said estate without the authority for that purpose of the supreme court, or of some judge thereof, or of

some circuit court, or of the master of the supreme court, first had and obtained.

*Compensation to trustees.*

44. And be it enacted, that all trustees so appointed by the court, or elected by the creditors, shall receive and be paid out of the assets of the said estate a reasonable compensation for their care and diligence in the said trust, to be assessed by the master of the said court, subject to the review of the said court, upon the petition of any creditor, or of the said trustees, or of any person having any interest in the said estate.

*Confirmation of trustees.*

45. And be it enacted, that so soon as the trustees elected by the creditors shall have accepted their office, it shall and may be lawful for the supreme court, upon the report of the master, to make a decree confirming the appointment of such trustee.

*Effect of order for sequestration upon the estate of insolvent.*

46. And be it enacted, that every order made for placing any estate under sequestration as insolvent shall, so soon as made, have the effect in law to divest the insolvent and all persons administering the whole or any part of his estate for his use and behoof, and to vest in the master of the supreme court, for the uses and purposes of the sequestration, all the present and future estate, moveable and immoveable, personal and real, and every right, title, and interest in and to any property, moveable or immoveable, personal or real, wheresoever the same may be known or found, which shall belong or be due to such insolvent at the date of making such order, or as to which any right of reversion shall then be vested in him, or which may thereafter be purchased or acquired by, or may revert, descend, or be devised, or come, to the insolvent, at any time before the making of the order of court allowing and confirming, as hereinafter mentioned, the account and plan of distribution to be framed by the trustees, (except as in the 49th section is excepted) together with all deeds, vouchers, papers, or writings respecting the same: and after the said order for sequestration has been made, neither the insolvent nor any person claiming through or under him shall have power to alienate, give, cede, deliver, mortgage, pledge, or to recover, or to release or discharge the same, or any part thereof; neither shall the same be attached by any person, as the property of or belonging to the insolvent.

*Effect of appointment of provisional trustee.*

47. And be it enacted, that every order of court appointing any provisional trustee or trustees shall, so soon as made,

have the effect in law to divest the master of the supreme court, and to vest in such provisional trustee or trustees, for the uses and purposes of the sequestration, and until their removal, or until the making of the order of court, allowing and confirming as hereinafter mentioned the account and plan of distribution, (which ever shall first happen) all the present and future estate of the insolvent as fully, as completely, to all intents and purposes, as the said estate is, by virtue of the next succeeding section of this ordinance, vested in the trustee or trustees elected by the creditors, by the decree of the court confirming the appointment of the same. And whenever any provisional trustee or trustees shall die or be removed before the making of the decree aforesaid for confirming the appointment of any trustee or trustees elected by the creditors, then the whole present and future estate of the insolvent for the time being shall vest again in the said master, precisely as if the same had never been divested.

*Effect of decree for confirmation of trustees.*

48. And be it enacted, that every decree made as herein directed, for confirming any trustee or trustees, shall, so soon as made, have the effect in law, to divest the master of the supreme court, or any provisional trustee, and to vest in the trustee or trustees thereby confirmed, for the uses and purposes of the sequestration, and so long as such trustee or trustees shall continue to hold their office, all the present and future estate, moveable and immoveable, personal or real, which shall have belonged or been due to such insolvent at the time when the order for placing his estate under sequestration was made, or as to which any right of reversion shall then be vested in him, or which may thereafter be purchased, or acquired by, or may revert, descend or be devised, or come to the insolvent, during the continuance of the sequestration, and before the making of the order of court allowing and confirming the account and plan of distribution, as hereinafter provided, wheresoever the same may be found or known, (except as in the 49th section is excepted) together with all deeds, vouchers, papers, or writings respecting the same; and the said trustee or trustees shall have the like remedy to recover the said estate of the insolvent, or any part thereof in their own names for the purposes of the sequestration, as the insolvent himself might have had if his estate had not been sequestrated; and all powers vested in any insolvent at the time the order for placing his estate under sequestration was made, or which may thereafter become vested during the continuance of the sequestration, and before the making of the said order allowing and confirming the account and plan aforesaid, which such insolvent might have legally executed for his benefit, shall, after the said order for placing his estate



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under sequestration, and until an order of court appointing a provisional trustee or trustees, or until a decree be made for confirming the appointment of a trustee or trustees elected by the creditors, be executed by the master of the supreme court, and may, after such order appointing a provisional trustee or trustees, be executed by such provisional trustee or trustees until their removal, and may after their removal be executed by the said master until a decree be made for confirming the appointment of such trustee or trustees as aforesaid, and after such decree is made for confirming such appointment as aforesaid may be executed by the trustee or trustees whose appointment is thereby confirmed, for the benefit of the creditors, in such manner as the insolvent might have executed the same, and the said insolvent is hereby declared to be incapable to exercise or execute any such power as aforesaid.

*Capacity of insolvent between order of sequestration account and plan of distribution.*

49. And be it enacted, that during the time which shall intervene between the time of the making of the order for the sequestration of any insolvent estate and the making of the order allowing and confirming the account and plan of distribution, as hereinafter provided, the insolvent so long as he shall remain without his certificate, shall (except in the certain cases hereinafter excepted,) be absolutely disqualified and incapacitated to acquire or possess as against the person in whom, for the time being, the insolvent estate shall by law be vested, any property, goods or effects, moveable or immoveable, personal or real, or any right to any such property, goods or effects; and shall in like manner be absolutely disqualified and incapacitated to cede, transfer or convey, so as to bind the person in whom, for the time being, the insolvent estate shall by law be vested, any property, goods or effects, or any debt, claim or demand, or any bond, bill of exchange, promissory note, or other security for money, and as against or in question with such last mentioned person every such attempted cession, transfer or conveyance shall be totally null and void. And no person who shall have sold and delivered upon credit any goods, wares, merchandize, or other matter or things, to any such insolvent shall be entitled to reduce or set aside the sale, or to claim the amount of the purchase money from the person in whom the insolvent estate shall, for the time being, by law be vested, by reason merely that the said insolvent was, at the time of the contract of sale, so disqualified and incapacitated as aforesaid, or that the articles sold and delivered have been taken possession of by such person in whom the said estate was vested as aforesaid, for the benefit of the said estate. And no such insolvent shall be deemed or taken to have any power to bind any such last mentioned person, or the

insolvent estate in him vested, by any sort or description of dealing, contract or transaction whatsoever, unless the same shall have been entered into by virtue of an authority to that effect from such person in writing: provided always, that nothing herein contained shall be construed so as to prevent any such insolvent from passing a valid title by any such cession, transfer, or conveyance as aforesaid, while acting, so far as he shall be authorized in writing so to do, as the mandatory or agent of his trustee, or from acting as the mandatory or agent of any other person by whom such insolvent shall be authorized in writing so to act, and for whom he shall have been in writing permitted so to act by the person in whom, for the time being, the insolvent estate shall be vested: provided also, that nothing herein contained shall be construed so as to prevent any insolvent, whether acting as such mandatory or agent as aforesaid or not, from well and effectually passing title to any person whatever, by the delivering to him of any moveable goods or effects, which were next before such delivery in the actual possession of such insolvent, in pursuance of any real and *bona fide* purchase from such insolvent for a just price duly paid, or to prevent any such insolvent from well and effectually passing title to any money paid by him in cash down for any matter or thing purchased by him at the time of such payment, or to prevent any such insolvent from receiving, suing for and recovering, in his own name and for his own personal and exclusive use, and free from the control of his trustee, the hire, wages, or reward of his work and labour, or that of any of his family, by him or them bestowed during the intervening time aforesaid, or any part thereof, or any damages claimable by reason of any personal wrong or injury done to such insolvent, or any member of his family. And provided that whenever any property, goods, or effects shall be proved by such insolvent to have been purchased or obtained by means of any monies receivable or recoverable as aforesaid for his own personal use; such property, goods, or effects shall also be free from the control of his trustee, in like manner as the monies were by which they were purchased or obtained.

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#### *Actions by or against trustees.*

50. And be it enacted, that it shall and may be lawful for the trustees, to take up, and continue in their own names, the process in any action commenced for any debt or demand due to the estate, before their appointment, or to discontinue the same, as they shall see fit; and also to commence any new suit or action in any competent court, for any debt or demand due to or affecting the estate of any insolvent person; and also to defend any action brought against them, or pending against the insolvent, relating to or affecting the said estate.

*Insolvent competent as witness.*

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51. And be it enacted, that in every such action as in the last preceding section mentioned, and in every action between any parties for determining the validity of the claim of any person claiming to be a creditor in the insolvent estate, or the right of any person or persons to or of preference over any part of the assets of the insolvent estate, the insolvent, whether he shall have obtained his certificate or not, shall not be deemed or taken to be an incompetent witness either for or against the said trustees, or either of the parties, in any such action as aforesaid, by reason of any interest which he may have, or be presumed to have, in the event of the suit.

*Removal of trustee, and new election.*

52. And be it enacted, that it shall and may be lawful for the supreme court, or any circuit court, on cause shown by the master of the said court, or by any person interested in the due administration of the insolvent estate, to remove any trustee or trustees for insolvency, or for any misconduct in the said trust, or on account of absence from this colony; and thereupon, and as often as any trustee shall die, or obtain leave from the said court to resign, or shall become incapacitated, it shall and may be lawful for the said court, or any judge thereof, to order a new trustee to be elected, and the same proceedings shall be had thereon as on the original election of trustees; and it shall and may be lawful for the said court, or any judge thereof, in the mean time, to make such order as may be necessary or expedient for the preservation of the insolvent estate, until such new trustee shall be elected and confirmed.

*Effect of decree for confirmation of new trustee.*

53. And be it enacted, that whenever, on the death or removal of any trustee, any new trustee shall be elected and confirmed in manner hereinbefore provided, the decree confirming the appointment of such new trustee shall have the effect in law to vest in the new trustee the whole insolvent estate, present or future, as hereinbefore particularly described, and every power, right, title, privilege, and remedy vested in or competent to the former trustee, as trustee, before his death or removal, as fully, and to the same extent, as the same was vested in the former trustee by the decree made for confirming his appointment, in manner aforesaid: Provided always, that the death or removal of any trustee shall not affect the validity or force of any lawful act done by him as trustee for the purposes of the sequestration, prior to his death or removal. And during any period of time which shall elapse between the death or removal of any trustee, and the making of the decree for confirming the election of the trustee confirmed in his place, and no longer, the whole of the



then existing insolvent estate shall, except when, notwithstanding such death or removal, there shall remain in office one or more of the trustees of the said estate, be vested in the master of the supreme court.

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*Actions may be continued by new trustees.*

54. And be it enacted, that whenever a trustee shall die, or a new trustee shall be chosen, no action relative to the insolvent estate shall be thereby abated; but the court in which any such action is depending, may, upon the suggestion of such death or removal, or that a new trustee has been chosen and confirmed, allow the name of the surviving or new trustee or trustees to be substituted in the place of the former; and the said action shall proceed as if such surviving or new trustee or trustees had originally commenced or defended the same.

*Notice by trustees of their appointment.*

55. And be it enacted, that every trustee, on being confirmed, shall forthwith cause notice of the sequestration and of his appointment to be given by advertisement in the *Government Gazette*, and the master of the supreme court shall cause notice of every order made for the removal of any trustee to be given by advertisement in the *Government Gazette*.

*As to trustees calling general meetings of creditors.*

56. And be it enacted, that it shall and may be lawful for any trustee or trustees, at any time, to call a general meeting of the creditors, and to require their directions concerning the collection or sale of any part of the estate, or concerning any matter or question relating to the administration of the said estate, and the trustee or trustees shall call such meeting whenever they are thereto required by one-fourth of the creditors in value who have produced and proved their claims; and the said trustees shall pursue the directions of the greater part of the creditors attending such meeting: Provided always, that twenty-eight days' notice, at the least, shall be given of every such meeting, and of the purpose thereof, in the *Government Gazette*, unless in any particular case the master or resident magistrate shall authorize the trustee or trustees to call a meeting upon some shorter notice: And provided also, that no such meeting shall be competent to direct the said trustees to do any thing calculated to interfere with or injure the just rights of any creditor who shall hold any preferable security or lien upon any part of the insolvent estate; and in case any direction shall be given by any such meeting calculated to interfere with or injure such rights, such creditor may apply by motion to the supreme court, to set aside such direction, and thereupon the said court shall make such order in the premises as shall to justice appertain.

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*All meetings of creditors to be held before either master or resident magistrate.*

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57. And be it enacted, that all meetings of creditors called by virtue of this Ordinance, and appointed to be holden in Cape Town, shall take place before the master of the supreme court; and if appointed to be holden in any district of the colony other than the Cape district, then before the resident magistrate of such district, or the person acting as such, who shall forthwith certify to the said master the proceedings thereat.

*Employment by trustees of attorneys.*

58. And be it enacted, that it shall and may be lawful for the trustees to take legal advice on any legal question affecting the insolvent estate, or the administration thereof, and to employ an attorney for the conducting and defending all actions and suits for or against the insolvent estate, and to charge against the insolvent estate all such fees as shall thereby be incurred and shall be allowed upon taxation by the master of the supreme court, subject to the review of the supreme court, upon the complaint of the attorney so employed, or of any person having an interest in the due administration of the estate under sequestration; and when it shall be made to appear to the supreme court, that any attorney has improperly advised, commenced, conducted, or defended any such action or suit, or incurred any improper or unnecessary expense therein, with the purpose of thereby benefiting himself, and not with the *bona fide* purpose of thereby benefiting the insolvent estate, it shall and may be lawful for the said court, to order the whole or any part of the costs of such action to be paid by such attorney, as the said court shall think fit.

*Employment by trustees of insolvent, or other person about the estate.*

59. And be it enacted, that it shall and may be lawful for the master of the supreme court, and for any trustees, whether provisional or elected, respectively, to grant and allow to the insolvent, out of the assets of the insolvent estate, such moderate sum or sums as the said master or the said trustees, respectively, shall find to be indispensably necessary for the support of the insolvent and his family, pending the decision of the creditors in regard to such support, and the said master and such trustees as aforesaid, may, if they shall, respectively, see fit, employ the insolvent, or any other person, in the gathering and preservation of any crops or produce, for any reasonable time necessary for the gathering and preservation thereof; and also leave the said insolvent, or place any other person, in the charge of any property, manufactory, or concern, belonging to the insolvent estate, until the same shall be sold, disposed of, or wound up, and make to the said insolvent, or other person

so employed, a reasonable allowance, per diem, for his labour : provided that the amount of every such allowance, whether for support or labour, as the case may be, granted before the meeting of creditors which shall be first holden after the second meeting of creditors by this Ordinance directed, shall be submitted to such meeting, which meeting shall have power to decide whether any such allowance shall be continued, and if so, for what length of time, and what shall be the amount thereof. And provided also, that every trustee who shall make any such allowance to an insolvent, except with the consent of the creditors assembled at such meeting as last aforesaid, or at some other meeting duly convened, shall forthwith report to the master of the supreme court the amount and grounds of such allowance. And provided, that every such allowance made by any trustee, without the consent of the creditors, shall be subject to the review of the supreme court upon the application of the said master, or of any person interested in the due administration of the insolvent estate.

*Attendance of insolvent at meetings of his creditors.*

60. And be it enacted, that the insolvent or legal administrator of any insolvent estate shall attend before the creditors at the first, second, and third meetings of creditors to be holden by virtue of this Ordinance, and at every adjournment of the said second meeting, unless authorized by the master or resident magistrate, as the case may be, not to attend any such adjourned meeting, and shall also attend before the creditors at every other meeting of creditors held by virtue of this Ordinance, whenever he shall be required so to do by a notice in writing signed by the master of the supreme court, or by the resident magistrate before whom such meeting is to be held, (which notice the said master and resident magistrate are hereby respectively authorized to give,) and shall, at every meeting of creditors which he shall attend, answer all such lawful questions as shall be put to him by the said master or the said resident magistrate, as the case may be, touching and concerning his affairs and estate, and the cause and ground of his insolvency, and shall, at the said second meeting, being thereunto required by the creditors, lodge with the master or resident magistrate, as the case may be, to be by him delivered to the trustee or trustees when appointed or confirmed, a true inventory of the whole of such estate and effects, moveable and immoveable, personal and real, wheresoever the same may be situated, and of all estates and effects in expectancy or contingency, or to which the insolvent may have any eventual right, and all debts due to and by him, to the best of his knowledge and belief, and all books of accounts, papers, writings, documents, bills, and vouchers, relating to the said estate, which are in his custody or power ;



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and the said insolvent or administrator shall, upon being thereunto required, surrender the said books, papers, writings, documents, bills, and vouchers, to the said master or resident magistrate, as the case may be, to be by him delivered to the trustee or trustees when appointed or confirmed.

*Insolvent may be examined on oath at any meeting.*

61. And be it enacted, that it shall and may be lawful for the master of the supreme court and for the resident magistrate, when they shall respectively preside at any meeting of creditors before which the insolvent shall attend, to examine the insolvent upon oath, if they shall see fit so to do, touching all matters relating to his trade, dealings, or estate, or which may tend to disclose any secret alienation, transfer, cession, delivery, or concealment of his estate and effects, moveable or immoveable, personal or real, and to cause his examination to be reduced to writing, and signed by him, and annexed to the proceedings in the said estate.

*Examination of insolvent before the court or commissioner.*

62. And be it enacted, that it shall and may be lawful for the supreme court, or any circuit court, upon the application of the trustee or trustees, whenever and so often as they shall see fit, to summon any insolvent before the supreme court, or any circuit court, or any commissioner of the supreme court, if the said court shall see fit so to order, whether the said insolvent shall have obtained his certificate and allowance thereof or not. And it shall be lawful for such court, or commissioner, to examine him upon oath touching all matters relating to his trade, dealings, or estate, which may tend to disclose any secret alienation, transfer, cession, delivery, or concealment of his estate or effects, moveable or immoveable, personal or real, and to cause his examination to be reduced to writing, and signed by him, and annexed to the proceedings in the said estate.

*Warrant for apprehension of insolvent for not appearing.—Offence and punishment for absconding, &c.*

63. And be it enacted, that if any insolvent, being lawfully summoned as aforesaid to appear before the supreme court, or any circuit court or any commissioner of the supreme court, shall not, at the time and place appointed in the summons for his appearance, come before such court or commissioner, (having no lawful impediment at such time made known to and allowed by such court or commissioner,) it shall be lawful for such court or for such commissioner, under his hand, to grant warrant, authorizing any officer of the law or other person to apprehend such insolvent, and forthwith to bring him before such court or commissioner, or to lodge him in any prison, therein to be detained until the time which such court or commissioner, as aforesaid,

shall have appointed anew, on the application of the trustee or trustees, for his examination: and the gaoler of every such prison shall cause him to be brought before such court or commissioner, at the time and place specified in such warrant: and every insolvent aforesaid, who, being summoned as aforesaid, shall depart from the colony, or abscond, or conceal himself within the same, with the purpose and intent to evade appearing at any such examination to which he was summoned, or to prevent any warrant hereinbefore mentioned from being executed upon him, shall be deemed guilty of the crime of fraudulent insolvency: and shall, on conviction thereof, suffer transportation for any period not exceeding seven years, or imprisonment, with or without hard labour, for any period not exceeding five years.

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*In what cases the insolvent under examination may be committed.*

64. And be it enacted, that if any insolvent shall at the second meeting of his creditors, or any adjournment thereof held as aforesaid, being thereunto required, refuse to lodge a true inventory of his estate and effects, or to surrender the books, papers, writings, documents, bills, or vouchers, relative to his estate as aforesaid; or shall, at his examination before any court or commissioner before mentioned, or any meeting of creditors which he shall attend as aforesaid, refuse to be sworn, or shall refuse to answer any lawful questions put to him by such court or commissioner, or by the said master or resident magistrate touching any of the matters aforesaid; or shall refuse to sign or subscribe his examination, so reduced into writing as aforesaid, (not having any lawful objection to so doing,) it shall be lawful for such court, or commissioner, or for such master, or such resident magistrate, by warrant under his hand to commit him to such prison as they shall think fit, there to remain without bail, until he submit to do the matters aforesaid, or to be sworn, or make answer to such lawful questions as shall by them be put to him, or sign and subscribe such examination as aforesaid.

*Wife and any person may be summoned for examination before court or commissioner; apprehension upon refusing to appear; and in what cases liable to be committed.*

65. And be it enacted, that after surrender or adjudication of sequestration of any estate as insolvent, it shall and may be lawful for the supreme court, or any circuit court, upon the application of the said trustee or trustees, to summon before the said court, or any circuit court or any commissioner of the supreme court, the wife of the insolvent, or any person known or suspected to have in possession any of the estate of the insolvent, or to be indebted to the insolvent, or any person whom the said court may see reason to believe capable of giving information concerning the person, trade, dealing, or estate of such insolvent, or any information material to the full disclosure thereof: and also to require

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such person to produce any books, papers, deeds, writings, or other documents, in his or her custody, which may appear to the said court necessary to the verification or disclosure of any of the matters aforesaid; and it shall and may be lawful for the said supreme court, or circuit court, or commissioner, to examine every such person, upon oath, concerning the person, trade, dealings, or estate of such insolvent, and to cause his or her examination to be reduced to writing, and signed by him or her, and annexed to the said proceedings; and, if any such person shall, upon being lawfully summoned to appear to be examined, fail so to appear, (having no lawful impediment made known to the court, or commissioner, before whom such person is summoned at such time, and allowed by them,) it shall be lawful for such court, or for such commissioner under his hand, to grant warrant, authorizing and directing any officer of the law, or other person, to apprehend the person so summoned and failing to appear, and to bring the said person before such court or commissioner, or to lodge the said person in any prison, therein to be detained until the time which such court or commissioner shall, on the application of the trustee or trustees, have appointed anew for his or her examination: and the gaoler of any such prison shall cause such person to be brought before such court or commissioner at the time and place specified in such warrant. And if any such person so summoned or brought before such court or commissioner for examination, shall refuse to be sworn, or shall refuse to answer any lawful question put by such court or commissioner touching any of the matters aforesaid, or shall refuse to sign his or her examination so reduced into writing as aforesaid, (not having any lawful objection allowed by such court or commissioner,) or shall not, being thereunto required, produce any books, papers, deeds, writings, or other documents in his or her custody or power, relating to any of the matters aforesaid, and to the production of which he or she shall not state any objection allowed by them, it shall be lawful for such court, or for such commissioner, by warrant under his hand, to commit him to such prison as they shall think fit, there to remain without bail, until such person shall submit to be sworn, or make answers to all such lawful questions, as shall by such court or commissioner be put, or sign such examination, or produce such books, papers, deeds, writings or other documents, as aforesaid, in his or her custody or power, to the production of which no such objection as aforesaid shall be allowed.

*Expenses to be tendered to persons summoned.*

66. And be it enacted, that the insolvent and every other person summoned before the supreme court, or circuit court, or any commissioner, by order of the said court to be examined or give evidence, or make disclosure of the trade, dealings, estate,



or effects of any insolvent, under or by virtue of this Ordinance, shall have his necessary expenses tendered to him by the trustee or trustees of such insolvent estate, in like manner as is by law required upon service of a subpœna to a witness in any civil suit. And such necessary expenses shall also be tendered to every insolvent who is required by any notice in writing, signed by the master of the supreme court, or by any resident magistrate, to attend any meeting of creditors other than the first, second, and third meetings as aforesaid, or some adjournment of the second meeting.

*Insolvent swearing falsely, guilty of the crime of perjury.*

67. And be it enacted, that every insolvent or other person, sworn by or before any court, or commisssioner, or by the master of the supreme court, or by any resident magistrate, by virtue of any of the provisions of this Ordinance, who shall wilfully make any false answer to any lawful question put by such court, commissioner, master, or resident magistrate, such person shall be deemed guilty of the crime of perjury, and on conviction thereof shall suffer any punishment provided by law for such crime.

*As to discharge from prison by court, or judge, of person under commitment.*

68. And be it enacted, that if any person whatsoever be committed by any court or commissioner, or by the said master, or by any resident magistrate, for refusing to answer, or not fully answering, any question put to him by them, they shall, in their warrant of commitment, specify every such question; and if any person so committed as aforesaid, shall make any application to any court or judge, competent to entertain the same, in order to be discharged from such commitment, and there shall not appear to such court or judge any insufficiency or informality in the form of the warrant, whereby such person was committed, by reason whereof he might be discharged, it shall be lawful for such court or judge, and such court or judge is hereby required, to recommit such person to the same prison, there to remain until he shall conform as aforesaid; unless it be shown to such court or judge by the party committed that he has fully answered all lawful questions put to him on his examination as aforesaid; or, if such person was committed for refusing to be sworn, or for not signing his examination, unless it shall appear to such court or judge, that he had a sufficient reason for the same; provided, also, that such court or judge shall, if required thereto by the party committed, consider the whole examination of such party, whereof any such question was a part; and if it shall appear from the whole examination, that the answer or answers of the party committed is or are satisfactory, such court or judge shall and may order the party so committed to be discharged.

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*Actions against master or magistrate to be subject to same provisions as actions against justices of the peace.*

69 And be it enacted, that in case any suit or action shall be instituted, or sought to be instituted, against the master of the supreme court, or any commissioner of the said court, or any resident magistrate, by reason or on account of any commitment to prison of the insolvent or other person, the said master, commissioner, and resident magistrate shall respectively possess and enjoy, in reference to such action, and the process and proceedings therein, every right, privilege and provision, and be subject to every liability which do, or shall by law, belong and pertain to suits or actions instituted or sought to be instituted against justices of the peace, for any thing done by them in the execution of their office; provided, also, that the court before which any action founded upon a commitment for refusing to answer, or not fully answering, any question or questions put to the plaintiff, is tried, shall, if required thereto by the defendant, consider the whole examination of the plaintiff, wherof such question was, or such questions were, a part; and if it shall, upon such consideration, appear to such court that the plaintiff was lawfully committed, the defendant shall have the same benefit therefrom as if the whole of such examination had been set forth in the warrant of commitment.

*What shall be fraudulent insolvency, and the punishment thereof.*

70. And be it enacted, that if any insolvent whose estate shall have already been, or shall hereafter be, surrendered or adjudged to be sequestrated as insolvent, shall, either before or after the making of the order for sequestration, have alienated, transferred, given, ceded, delivered, mortgaged, or pledged, or shall have embezzled, concealed, or removed, any part of his estate or effects, to the value of ten pounds sterling or upwards; or shall have concealed, removed, destroyed, falsified, or mutilated any books of accounts, papers, writings, documents, bills, or vouchers relating thereto, with intent to defraud his creditors; or shall have fraudulently contracted any debt; or if any insolvent shall, at the second meeting of his creditors, or any adjournment thereof, holden before the master of the supreme court, or any resident magistrate, for the purpose aforesaid, wilfully lodge any inventory containing any false statement of his estate or effects, or any part thereof, or with respect to any debt due to or by him, or shall produce any books of accounts, papers, writings, documents, bills, or vouchers, which are false, or on which any erasure or alteration has been made, or caused to be made by him, or with his knowledge, with the intent to defraud his creditors; or if any such insolvent shall, at any time when examined in manner aforesaid before any court or commissioner, or by the master of the supreme court, or by any resident ma-

gistrate, wilfully make any false answers to any lawful questions then put to him, with intent to defraud his creditors, or shall have connived at, or concealed from the trustee, his knowledge of the proof, by any person, of a false debt against his estate, he shall be deemed to be guilty of the crime of fraudulent insolvency, and, on conviction thereof shall suffer transportation for life, or for any shorter period, not less than five years, or imprisonment, with or without hard labour, for any period not exceeding five years.

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*What shall be culpable insolvency, and the punishment thereof.*

71. And be it enacted, that if any insolvent whose estate shall hereafter be surrendered, or adjudged to be sequestrated as insolvent, shall fail to attend before his creditors at the first, second, and third meetings thereof, or shall fail to attend at any adjournment of the said second meeting, unless authorized by the master or resident magistrate, as the case may be, not to attend the same, or shall, without good and lawful reason for absenting himself, fail to attend before his creditors, at any meeting thereof, after having been personally served with a notice in writing signed by the master or the resident magistrate, as the case may be, requiring him to attend such meeting, or shall not, in case his estate is deficient to the amount of five hundred pounds, or upwards, have kept, or caused to be kept, such reasonable and proper books or accounts containing all such entries belonging to, and exhibiting the nature of, his dealings and transactions as (regard being had to his particular trade or calling) might reasonably be expected and required; or shall not, when thereto required by the said master or the resident magistrate, as the case may be, at any meeting of his creditors, account for or discover what has become of any money, or valuable security, or other property or effects, which shall have been proved to have been in his possession so recently before the sequestration as to make it his duty so to do; or shall not, when thereto required by such master or resident magistrate as aforesaid, give a true and a sufficient explanation of the cause or causes of his insolvency; or if he shall have given to any of his creditors an undue preference as the same is hereinafter defined; or shall have contracted any debt without any reasonable or probable expectation, at the time of contracting the same, of being able to pay the same; or shall have incurred any debt by reason of any breach of trust; or shall, without having obtained his certificate and the allowance thereof, between the time of the making of the order for the sequestration of his estate and the time of the making of the decree confirming the account and plan of distribution as hereinafter mentioned, have entered into any dealing or business, or taken upon him the buying and selling of any goods, wares, or merchandize, whether for himself or any other



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person whatsoever, without the authority in writing of the person in whom the insolvent estate shall, for the time being, by law be vested, first had and obtained; or shall have granted, made, or promised any gratuity, payment, security, or other undue consideration, in order to procure or obtain the concurrence or assent of any creditor either to any offer of composition, or to the certificate, as the same are hereinafter mentioned, such insolvent shall be deemed to be guilty of the crime of culpable insolvency, and, upon conviction, be imprisoned with or without hard labor, for any period not exceeding six months.

*Courts of resident magistrates to have jurisdiction in cases of culpable insolvency.*

72. And be it enacted, that it shall and may be lawful for the courts of the resident magistrates in this colony, respectively, on the conviction before any such court of any person of any of the offences set forth in the last preceding section mentioned, to sentence such person to the punishment in the said section provided.

*Nature of trustee's right of prosecution.*

73. And be it enacted, that every trustee, and every creditor of or on the estate of any insolvent shall, with regard to any of the offences set forth in the 71st section of this Ordinance, have the same right of prosecution which any private person has by law with regard to any offence committed against his person or property, and no other right; provided always, that no creditor or creditors shall be entitled to exercise any such right of prosecution for any such offence without first obtaining from the trustee, and producing, a certificate that the trustee declines to prosecute for that offence.

*As to offence of knowingly receiving any fraudulent alienation, &c. from insolvent.*

74. And be it enacted, that if any person shall receive or accept any alienation, transfer, gift, cession, delivery, mortgage, or pledge made by any insolvent of any part of his estate or effects, with intent to defraud the creditors of the insolvent, knowing, at the time, the same to be fraudulently made, such person shall, on conviction thereof, suffer transportation for life, or for any period not less than five years, or imprisonment, with or without hard labour, for any period not exceeding five years.

*As to offence of removing, embezzling, &c. any property under attachment.*

75. And be it enacted, that if any person shall dispose of, remove, conceal, embezzle, or receive, any moveable property belonging to any insolvent estate, which has been attached by virtue of any order for the sequestration thereof, or any moveable

property, which has been attached by process of any competent court, knowing the same to have been so attached, and with intent to defeat the said attachment, such person shall, on conviction thereof, suffer transportation for any period not exceeding seven years, or imprisonment, with or without hard labour, for any period not exceeding five years.

*Warrants to search for concealed property of any insolvent.*

76. And be it enacted, that in all cases when, on the application of the master of the supreme court, or any trustee or trustees of any insolvent estate, it shall, on oath, be made to appear to the satisfaction of any judge of the supreme court, or resident magistrate, or justice of the peace, that there is reason to suspect or believe that property of any insolvent is concealed in any house or other place not belonging to the insolvent, it shall and may be lawful to the said judge, magistrate, or justice of the peace, to grant a warrant to search for and take the said property; which warrant shall be executed in like manner as is by law allowed in execution of a search warrant for property reputed to be stolen and concealed: and any property of the insolvent so found shall forthwith be delivered, if no trustee or trustees have hitherto been confirmed, to the master of the supreme court, or otherwise, to the trustee or trustees who have been confirmed, or to any person appointed by the said master, or trustee or trustees, to receive the same.

*Time and mode of appointing third meeting of creditors.*

77. And be it enacted, that it shall be lawful for the master of the supreme court, and he is hereby required, so soon as the trustee or trustees, chosen at the second meeting of the creditors of any insolvent estate in manner aforesaid, have been confirmed, forthwith to appoint the third meeting of the creditors of the insolvent to be holden before himself, or any resident magistrate, at such time, and at such place, as he shall deem most expedient for all parties concerned, for the purpose of receiving proof of debts, and for receiving the report of the trustee or trustees as to the condition of the insolvent estate, and for giving directions to the trustee or trustees as to the management thereof; and the said trustee or trustees shall give notice of the time and place at which, and of the purposes for which, such meeting is to be held, in the same advertisement in the *Government Gazette* in which notice is herein before required to be given by them to the creditors, of their confirmation as trustee or trustees.

*Choice of a commissioner.*

78. And be it enacted, that it shall and may be lawful for the creditors of any insolvent estate present at such third meeting as aforesaid, or at any other subsequent meeting, to elect, if they shall by a majority determine so to do, one commissioner,

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who shall be either a creditor or the mandatory of a creditor, and the same proceedings shall take place, and the same regulations apply, in regard to his election, as are hereinbefore provided in regard to the election of trustee, except that no decree of the supreme court confirming his appointment shall be necessary. Provided that no person shall be eligible to be a commissioner who is disqualified to be a trustee, and provided that after every such election of a commissioner, the master of the supreme court, or the resident magistrate, as the case may be, shall annex a record thereof to the proceedings in the insolvent estate; and provided that the trustee shall, in all cases when a commissioner has declined to act, or died, or resigned, or become incapacitated, call a meeting of creditors for the purpose of electing, should they, by a majority, think proper so to do, a new commissioner, and such new commissioner shall be elected in the manner hereinbefore provided:—and provided that no commissioner shall be entitled to or receive any species of salary, commission, allowance or remuneration whatever from the insolvent estate for his services as such commissioner. And provided, that, when the question of electing a commissioner shall be sought to be submitted to any meeting of creditors other than the third meeting, a public notice of not less than fourteen days shall be given in the *Government Gazette*, that such a question will be submitted to such meeting.

*Duties and powers of commissioner.*

79. And be it enacted, that it shall and may be lawful for the said commissioner, when such shall be elected as aforesaid, to superintend the proceedings of the trustee, give his advice and assistance in the management of the estate, inquire, from time to time, into the situation thereof, and of every part thereof, examine all the accounts of the trustee regarding the said estate, require from the trustee all such reasonable explanation or information as he or they may, from time to time, demand, touching any matter or thing belonging to the administration of the said estate, and assist the master of the supreme court in assessing the compensation to be paid to the trustee.

*Commissioner may call meetings.*

80. And be it enacted, that it shall and may be lawful for the commissioner to call, at any time, a general meeting of the creditors, and to make to such meeting such reports or representations in regard to any matter or question respecting the administration of the insolvent estate as he shall deem necessary or expedient; and the trustee shall pursue the directions of the greater part of the creditors attending such meeting:—provided always, that twenty-eight days' notice, at the least, shall be given of every such meeting, and of the purpose thereof, in the *Government Gazette*.



*Trustee neglecting to comply with lawful requirements of commissioner, guilty of misconduct in his trust, and removable.*

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81. And be it enacted, that any trustee who shall neglect or refuse to give to any commissioner any such information concerning the situation and administration of the insolvent estate, or any such insight into the accounts thereof, as the said commissioner is, as aforesaid, authorized and empowered to demand and require, shall be deemed and taken to have misconducted himself in his trust, and may thereupon be removed in manner and form as hereinbefore provided from the office of trustee.

*Mode of calling in debts due to estate, and costs upon non-payment.*

82. And be it enacted, that the trustee or trustees shall, after being confirmed, forthwith call in and collect all debts due to the estate, and, for that purpose, they shall, by advertisement in the *Government Gazette*, summon all debtors to pay, or cause the same to be paid, to them, at such time and place, as shall be therein appointed for that purpose; and any person neglecting or refusing to make such payment, and being afterwards sued for any such debt, shall, if the said trustee or trustees obtain a judgment against him, and if he shall not show cause, to the satisfaction of the court awarding such judgment, for such neglect or refusal, pay to the said trustee or trustees double costs of suit, for the benefit of the said estate: and the said publication shall be deemed notice thereof to all persons who may reasonably be presumed to have seen the same. And the said trustee or trustees shall also proceed to set aside, and if necessary, by legal process, all such payments, alienations and pledges, made by any person whose estate shall be sequestered as insolvent, as are hereinafter particularly described, and declared to be null and void, precisely as if the money, or other property delivered or pledged, had belonged to the said trustee or trustees at the time of the making of such payments, alienations, or pledges respectively.

*What alienations, &c. null and void.*

83. And be it enacted, that every alienation, transfer, gift, cession, delivery, mortgage, or pledge of any goods or effects, moveable or immoveable, personal or real, made by any insolvent, at a time when it shall be made to appear by proof, that his liabilities fairly calculated exceeded his assets fairly valued, shall, unless the same shall have been made *bona fide*, and upon just and valuable considerations, be null and void. And whenever the immediate and necessary effect of any such alienation, transfer, gift, cession, delivery, mortgage, or pledge, as aforesaid, shall be to cause such an excess of liabilities over assets, then the same, to the extent to which such excess shall have been thus produced, shall be null and void.

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*What alienations, &c. and payments to creditors undue preferences.*

84. And be it enacted, that every alienation, transfer, cession, delivery, mortgage, or pledge of any goods or effects, moveable or immoveable, personal or real, and every payment made by any insolvent to any creditor, such insolvent at the time contemplating the sequestration, either voluntary or otherwise, of his estate, and intending thereby to prefer directly or indirectly such creditor before his other creditors, shall be deemed to be an undue preference, and is hereby declared to be null and void. And every such alienation, transfer, cession, delivery, mortgage, or pledge as aforesaid, made by any insolvent to any person whatever, such insolvent at the time contemplating, as aforesaid, the sequestration of his estate, and intending thereby to prefer directly or indirectly any creditor before his other creditors, shall be deemed to be an undue preference of such creditors in so far as he shall have been benefited thereby, and the trustee or trustees shall be entitled to recover the amount or value of such undue preference from the creditor so preferred.

*What alienations, &c. and payments for the benefit of sureties, &c. undue preferences.*

85. And be it enacted, that every alienation, transfer, cession, delivery, mortgage, or pledge of any goods or effects, moveable or immoveable, personal or real, and every payment made by any insolvent, with the intention of thereby benefiting any person who, not being a creditor of such insolvent, would yet have become liable for the amount paid, satisfied, or secured by the insolvent, in case it had not been so paid, satisfied, or secured, either in the character of a surety for such insolvent, or in some character by law analogous thereto, such insolvent at the time contemplating the sequestration, either voluntary or otherwise, of his estate, shall be deemed to be an undue preference, and the trustee or trustees shall be entitled to claim and recover from the person so intended to be benefited whatever amount the insolvent shall have paid, satisfied, or secured, in discharge or relief of such person's liability.

*Alienations, &c. and payments in the usual course of trade protected.*

86. And be it enacted, that every alienation, transfer, cession, delivery, mortgage or pledge as aforesaid, and every payment made by any insolvent to any creditor in the usual and ordinary course of trade or business, shall, *prima facie*, be held and taken to have been made or given *bona fide*, and without an intention to give to such creditor any preference, although such insolvent may, at the time, contemplate the sequestration of his estate as insolvent, and in every such case it shall be necessary for the trustee or trustees seeking to set the same aside, to show the existence of some collusive arrangement, mutual under-

standing, or common consent, between the insolvent and the creditor, the one to give and the other to get a preference over the other creditors of the insolvent, under colour of a transaction in the usual and ordinary course of trade or business.

*Collusive executions avoided.*

87. And be it enacted, that every payment obtained by any creditor before the making of the order for sequestration, by means or under color of legal process against the insolvent, shall be deemed an undue preference, and be null and void, when and as often as such payment shall have been obtained or facilitated by connivance of the insolvent, or by collusion between such insolvent and such creditor, such insolvent, when so conniving or colluding, contemplating the sequestration of his estate, and intending to give such creditor, or allow such creditor to get, a preference above the other creditors of such insolvent.

*Persons receiving undue preferences through collusion to forfeit their debts.*

88. And be it enacted, that in every case in which any person, whether actually a creditor or not, shall be obliged, by virtue of the 84th or 85th or 87th sections of this Ordinance, to restore or repay, as the case may be, for the benefit of the insolvent estate, any alienation, transfer, cession, delivery, mortgage or pledge, or any payment, as having been an undue preference, such person shall not be allowed to claim or prove as a debt the amount of what he shall have so restored or repaid, but shall wholly forfeit such amount as regards the insolvent estate, in case such undue preference was received by such person by or through any collusive arrangement, mutual understanding, or common consent between such person and the insolvent, the one to give and the other to get such undue preference.

*Question of forfeiture how to be tried.*

89. And be it enacted, that it shall and may be lawful for the trustee or trustees of any insolvent estate, in any suit or action which he may cause to be instituted against any person for the restoration or repayment of any matter, money, or thing alleged to have been given or paid by the insolvent by way of undue preference, to claim amongst other things, that the defendant in such suit or action may be declared, by the judgment of the court in which such suit or action shall be pending, to have forfeited, in regard to the insolvent estate, the amount in which he shall be found to have been unduly preferred by reason of the collusive arrangement, mutual understanding, or common consent, in the last preceding section mentioned, and the question of such forfeiture shall be tried and determined together with the other questions in the case. And in case it shall not be necessary to institute any suit or action against persons who shall be alleged



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by the trustee or trustees to have been unduly preferred, the right of any such last-mentioned persons to prove a debt in respect of the amount or value of the matter, money, or thing by them restored or repaid shall, if disputed, be determined in manner and form as is hereinbefore provided for the regulation of the proof of debts.

*Certain creditors not to be obliged to restore or refund unless indemnified.*

90. And be it enacted, that in case any creditor of any insolvent shall have received from such insolvent an undue preference, but under circumstances which do not, by force and virtue of the 88th section of this Ordinance, occasion a forfeiture of the value or amount of such preference, then in case such creditor shall have received such undue preference in respect of any bill of exchange or promissory note, with recourse on other parties, which was payable by the insolvent, and held by such creditors, or in any respect of any debt of the insolvent for which such creditor had any security, which by reason of the act of the insolvent constituting the undue preference, such creditor has *bona fide* given up, discharged, or in law, precluded himself from enforcing, such creditor shall not be liable to restore or repay to the trustee or trustees the value or amount of such undue preference, unless the trustee will indemnify and save him harmless in respect of whatever loss such creditor would sustain in case he were unconditionally condemned and adjudged to restore the value or amount aforesaid, and which loss such creditor would not have sustained in case he had never received from the insolvent the payment or other satisfaction constituting such preference.

*Purchases from creditors unduly preferred protected.*

91. And be it enacted, that if any person shall lawfully, *bona fide*, and without notice, purchase or acquire any bills of exchange, promissory notes, or other securities for money, or any goods or effects, moveable or immovable, personal or real, which have been alienated, transferred, given, ceded, or delivered by any insolvent, under circumstances, or in a manner, declared by any of the preceding or succeeding sections of this Ordinance to be null and void, from any person to whom such bills, notes, goods or effects, were so alienated, transferred, given, ceded, or delivered, by any true bargain or agreement upon just and valuable consideration, nothing contained in this Ordinance shall extend or be construed to extend to annul or affect any right which any such person has lawfully, *bona fide*, and without notice, purchased or acquired in such bills or notes, goods or effects. But in all such cases the persons to whom the same were alienated, transferred, given, ceded or delivered by the insolvent, shall be bound and obliged to pay the true value

of all such goods and effects, by them disposed of to the third party, to the trustee or trustees of the insolvent estate, for the benefit of the creditors thereof.

*What acquittances, discharges of debts, or security for same, when made by insolvent, void, and penalty upon collusion.*

92. And be it enacted, that all acquittances, surrenders, or discharges of any just debt, or of any security for any just debt, or other matter or thing, payment or delivery of which has not been actually and *bona fide* received, made by any insolvent while contemplating the sequestration of his estate, having the effect to deprive his creditors of the benefit of any debt or other matter or thing, shall be, and are hereby declared to be, as against the trustee or trustees of such insolvent, null and void. And in every case in which the person accepting from the insolvent any such acquittance, surrender or discharge aforesaid had, at the time of accepting the same, actual knowledge or reasonable notice that the effect of the same, if undetected, would be to deprive the creditors in the insolvent estate of the debt or other matter or thing in question, such person shall, besides making good such debt, matter or thing to the trustee or trustees of the insolvent estate, be also bound and obliged to pay to such trustee or trustees a further sum equal to the value of the debt, or other matter or thing, originally due and owing, wrongfully acquitted, surrendered or discharged, or attempted so to be.

*Alienations, cessions, &c., after any order of sequestration, void.*

93. And be it enacted, that all alienations, transfers, gifts, cessions, deliveries, mortgages, or pledges of any goods or effects, moveable or immoveable, personal or real, belonging to the insolvent estate, and all payments, and all acquittances, surrenders, and discharges of any just debt due to such insolvent estate, or of any security for any such just debt, or of any other matter or thing belonging or owing to the said estate, made by any insolvent after any order for the sequestration of his estate has been made, and before the making of the order of court allowing and confirming, as hereinafter mentioned, the account and plan of distribution to be framed by the trustees, shall be and are hereby declared to be null and void, the several payments and alienations which such insolvent is by virtue of the 49th section of this Ordinance rendered competent to make, alone excepted.

*Payment to insolvent when void.*

94. And be it enacted, that all payment or satisfaction made to any insolvent by any person who was the debtor of such insolvent at the time of the making of any order for the sequestration of the insolvent's estate, after the making such order shall be null and void; except only that where the sequestration of such

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estate shall have been adjudged at the instance of the creditors thereof, all payment or satisfaction really and *bona fide* made to any such insolvent, or to any person legally entitled to receive the same on his behalf, before such sequestration has been adjudged, shall be valid and effectual, in case any such person as aforesaid making such payment or satisfaction had not, when so doing, notice of any order for the sequestration of the estate of the insolvent having been made.

*Provisions relative to preferences to apply to persons administering the estates of other persons.*

95. And be it enacted, that every provision hereinbefore contained relative to what shall be deemed to be undue preferences, made by persons contemplating the sequestration of their own estates, and to the avoiding of the same, and to the forfeiture, under certain circumstances, of the amount of every such preference, shall be deemed and taken to apply, *mutatis mutandis*, to preferences given out of the assets of the estates which they administer by persons legally invested with the administration of the estates of deceased persons, and of persons legally or actually incapable of the administration of their estates, when such persons, so invested, contemplating the sequestration of the estates which they administer and intend to prefer some one or more creditors of any such estate before the other creditors thereof.

*Trustee of any such last mentioned estate entitled to recover either from the administrator preferring or from the creditor preferred.*

96. And be it enacted, that it shall and may be lawful for the trustee or trustees of the insolvent estate of any deceased person, or of the insolvent estate of any person legally or actually incapable of the administration of his estate, to demand and recover either from the person legally administering such estate before the sequestration thereof, and by whom any such undue preference shall have been given, out of the assets of such estate, or from the person to whom, or for whose benefit, such undue preference shall have been given, the value or amount of such undue preference, or such trustee or trustees may sue such persons successively. Provided always, that it shall not be competent for any such trustee or trustees to require the restoration or repayment of such undue preference, or of the amount thereof, from both such persons as aforesaid concurrently, or to recover from them both, when sued successively, more than the single value or amount of such undue preference, together with the costs and charges of such trustee or trustees.

*Trustees may compound or submit to arbitration upon notice thereof.*

97. And be it enacted, that it shall and may be lawful for the trustee or trustees, subject to the directions of the creditors



given in the manner hereinbefore mentioned, to agree, if he or they should think fit, to any offer of composition made by any debtor of the insolvent estate who is himself insolvent, or to the certificate of any such insolvent, and to compound with any debtor to the insolvent estate, and take any reasonable part of the debt in discharge of the whole, or to give a reasonable time or take security for the payment of such debt, or to submit any dispute between them and any person concerning or effecting the said estate to the determination of arbitrators, to be chosen by the trustee or trustees and the party with whom they shall have such dispute, and the award of such arbitrators shall be binding on all the creditors: Provided always, that previous notice of their intention so to agree to any offer of composition, or to any certificate, or to compound any debt, or submit any dispute to arbitration has been given for twenty-eight days, at least, by advertisement in the *Government Gazette*. And for the purpose of such offer of composition or certificate, the trustees signing, if more than one, shall reckon only as one creditor in number and value.

*As to sale of estate by trustees, conditions of sale, &c.*

98. And be it enacted, that the trustee or trustees shall, subject to the directions of the creditors given in manner hereinbefore provided, forthwith proceed to make sale of all the property belonging to the said estate, moveable and immoveable, giving due notice thereof in the *Government Gazette*, and also such other notice as they shall think fit: provided, that from the sale of the said moveable property shall be excepted, until the creditors shall determine thereon, the wearing apparel, bedding, household furniture, and tools of trade of the insolvent and his family; and provided, that the sale of all immoveable property shall take place in such manner, and under such conditions, as shall be determined on by the greater part in number and value of the creditors present at any meeting duly summoned: provided, however, that such conditions shall be subject to the approval or disapproval of the supreme court, or of any circuit court, on the application of any person interested in the due administration or reversion of the estate under sequestration.

*As to wearing apparel, tools, &c. of insolvent.*

99. And be it enacted, that it shall and may be lawful for the said trustee or trustees, with the consent of the greater part in number and value of the creditors who shall have proved their debts, present at any meeting whereof and of the purpose of which twenty-eight days' notice shall have been given in the *Government Gazette* to permit the said insolvent to retain, for his own use, the whole or such part of his wearing apparel, bedding, household furniture, and tools of trade, excepted from the sale of his moveable property, as the said creditors shall agree

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to allow to the said insolvent. Provided that every such permission shall be subject to the approval or disapproval of the supreme or any circuit court, on the application of any person interested in the due administration of the estate.

*Creditors to choose a bank with which trustee shall open an account, and lodge the monies of the estate.*

100. And be it enacted, that it shall and may be lawful for, and shall be the duty of the creditors of any insolvent estate, at the meeting held for the election of trustees, immediately after such election, in case such election shall take place at such meeting, and in case such election shall not then take place then immediately after the votes of the said creditors in regard to such election shall have been given, to nominate and appoint some certain bank or banks within this colony, with which bank or banks it shall be the duty of the trustee or trustees of such estate to open an account, and in case of a difference of opinion amongst the said creditors assembled at such meeting, the greater part in value of the said creditors shall determine upon the bank or banks to be so nominated and appointed as aforesaid, and from and after any such nomination and appointment of any such bank or banks, the trustee or trustees of such insolvent estate, whether chosen by the creditors or provisionally appointed, shall, as soon as he or they shall receive any sum of money exceeding *twenty pounds* belonging to such estate, open an account with such bank or banks in the name of the insolvent estate, and such sum and every other sum exceeding twenty pounds so received by him or them shall, with all convenient speed, be paid into such bank or banks, to be placed to the credit of such account, and all checks or orders for the payment of any such money out of the said bank or banks shall truly express the cause of such payment and the name of the person in whose favour it is drawn, and shall be signed by all the trustees or by one of them for himself and co-trustees. Provided, that in case the creditors of any insolvent estate shall neglect, in manner aforesaid, to nominate any such bank or banks as aforesaid, it shall be lawful for the trustee or trustees aforesaid, to open an account with, and pay all such monies as aforesaid into, any such bank or banks in this colony as he or they shall select. And provided that every provisional trustee appointed under this ordinance before the meeting of creditors for the election of trustees shall, pending such meeting, open an account with, and pay all such monies as aforesaid into, any such bank or banks in this colony as he shall select. And provided that all trustees, whether provisional or elected, shall in regard to the bank or banks with which such account as aforesaid shall be kept, and such monies as aforesaid lodged, pursue such directions as they shall, from time to time, receive from any general meeting of the creditors of the insolvent estate.

*Penalty upon trustee retaining or employing money belonging to the estate.*

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101. And be it enacted, that any trustee who shall retain in his hands, or knowingly permit any co-trustee so to retain, any sum of money exceeding *twenty pounds* sterling, part of any insolvent estate, longer than until the first day after his receiving the same, upon which it shall be possible for him to pay the said sum, or cause it to be paid, into some such bank or banks as aforesaid, and who shall not have any just and lawful cause for so retaining the same, or shall employ for his own benefit, or knowingly permit any co-trustee so to employ any sum of money, part of any insolvent estate, shall forfeit and pay, for the benefit of the said estate, double the amount of the sum so retained or employed; and the said sum so forfeited shall be deducted out of any claim the said trustee may have against the said estate, and the surplus, if any, shall be recovered by action in any competent court.

*Accounts of the trustees.*

102. And be it enacted, that the trustee or trustees shall keep an account, wherein they shall enter all property of the insolvent received by them, and all payments made by them on account of the insolvent's estate: which account every creditor who shall have proved, may inspect at all reasonable times. And it shall and may be lawful for the master of the said court, whenever he shall think fit, to summon the said trustee or trustees, by writing under his hand, to produce the said book, and the said master shall, as often as he shall see fit, examine and inspect the same.

*Powers of trustees in respect of agreements entered into by insolvent, for purchase or exchange of immoveable property.*

103. And be it enacted, that if any insolvent shall have entered into any agreement for the purchase or exchange of any estate or interest in any immoveable property, it shall and may be lawful for the trustee or trustees of such insolvent, either to abide by, execute, and sue for performance of such agreement, or abandon the same; and, if the said trustees shall not (upon being thereto required) elect whether they will abide by and execute such agreement, or abandon the same, the vendor, or person having made such agreement as aforesaid, or any one legally claiming under him, shall be entitled to apply, by motion, to the supreme court, or to any circuit court, who may thereupon order the trustees to deliver up any such agreement, and the possession of the premises to the vendor or person so agreeing as aforesaid, or any one claiming under him, or may make such other order therein, as the said court shall think fit; provided, that nothing herein contained shall prevent such vendor, or person having made such agreement as aforesaid, from suing the



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trustee or trustees in any competent court, and recovering judgment against the insolvent estate for any damage which he shall prove to the satisfaction of such court to have been by him sustained by the non-fulfilment, on the part of the insolvent, of any such agreement, or deprive the said trustee or trustees of their legal defence against such suit.

*Leases or agreements for leases to insolvent to cease upon sequestration, but not to prevent claims against trustees for damages, and their relief thereon.*

104. And be it enacted, that if any insolvent shall be entitled to any lease, or agreement for any lease, of immoveable property, such lease or agreement for lease shall, upon the surrender or adjudication of sequestration of the estate of such insolvent, cease and determine. Provided, that nothing herein contained shall prevent the lessor, or person having made such agreement, from suing the trustee or trustees in any competent court, and from recovering judgment against the insolvent estate for any rent which he shall prove to the satisfaction of such court to have been due by the insolvent prior to the surrender or adjudication of sequestration of his estate, or for any damage which he shall prove to the satisfaction of such court to have been by him sustained, in consequence of the non-performance of the conditions of such lease or agreement for a lease during the full period of the stipulated endurance thereof, or to deprive the trustee or trustees of their legal defence against such suit; or to prevent such trustee or trustees from suing the lessor or person having made such agreement in any competent court, for the amount of any ameliorations made on the subject, and in contemplation of such lease or agreement, by the insolvent, prior to the surrender or adjudication of sequestration of his estate, or to deprive such lessor or person of his legal defence against such suit; and provided also, that it shall be lawful for such trustee or trustees, when sued for damages for the non-fulfilment of such lease or agreement for a lease, to offer to take over and accept the same, and to perform the conditions thereof, during the full period of the stipulated endurance thereof; and that it shall be lawful for such lessor or person having made such agreement, when sued for the amount of such ameliorations as aforesaid, to offer to receive the trustee or trustees, as lessors in the place of the insolvent, under the conditions and for the full period of the stipulated endurance of such lease; and if such offer shall be refused, the party who has made it shall be absolved from the suit in which it has been made, and shall be entitled to his costs.

*Certain vendors not to be entitled to reclaim property found in the estate.*

105. And be it enacted, that no person from whom any insolvent shall have purchased any property, moveable or im-

moveable, personal or real, and who shall have delivered or caused or permitted such property to be delivered to such insolvent, shall be entitled either to claim such property being in the sequestrated estate, or to claim to be preferred, in any way, for the price or value thereof, by reason alone that such property was sold by such person to such insolvent without any period having been stipulated, until the expiration of which period the price should not be payable, or upon any actual agreement or tacit understanding that such price should be paid or payable forthwith. Provided that nothing herein contained shall be deemed or taken to alter or affect any previous law in force in this colony, in regard to the right of a vendor to rescind any sale and reclaim his property on account of fraud and circumvention practised upon him by the purchaser, except only in so far as the matters aforesaid hereby declared to be of themselves not sufficient to entitle any such vendor to claim again property sold and delivered, shall have been deemed to amount to, or to be conclusive evidence of, such fraud and circumvention; and provided, also, that nothing herein contained shall apply to any case in which any such vendor shall, within three days of the delivery of any property sold as aforesaid, reclaim by notice in writing, the possession of the said property, and proceed thereafter, without any unnecessary delay to enforce the re-delivery of the said property by means of legal process.

*Time and mode of offering composition by the insolvent, or on his behalf, and proceedings thereon.*

106. And be it enacted, that, if at the third public meeting of the creditors appointed by the master of the supreme court, as aforesaid, or at any subsequent meeting of the creditors assembled together by advertisement in the *Government Gazette*, stating the purpose of such meeting, the insolvent, or any person on his behalf, shall make an offer of composition, or security for composition, which nine-tenths of the creditors in number and value assembled at such meeting shall agree to accept, the trustee or trustees shall forthwith call another meeting for the purpose of deciding upon such offer, whereof at least forty-two days' notice shall be given by advertisement in the *Government Gazette*, specifying the time, place, and purpose of such meeting; and if, at such second meeting, nine-tenths in number and value of the creditors then present shall also agree to accept such offer, then upon such acceptance being certified to the supreme court, by the master of the said court, and upon oath of the insolvent, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction, to obtain the concurrence of any creditor to the said offer of composition, it shall be lawful for the said court, upon motion, to pronounce,

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if it should so think fit, a decree discharging the insolvent from all debts due by him at the time his estate was surrendered or adjudged to be sequestrated, and from all claims and demands proved or hereby made proveable or claimable against his estate, and declaring the sequestration at an end, and the insolvent re-invested with his estate, but reserving, however, always the claims of the creditors for such composition, or security for composition, as may have been agreed for, and be still unexecuted. Provided that at least twenty one days' notice of the day on which such motion as aforesaid is to be made shall have been given by advertisement in the *Government Gazette*, and that the said court shall hear any objection which may be made by any creditor against the pronouncing of such decree, and shall determine thereupon as the justice of the case shall require. Provided also, that if the creditors present at any such second meeting as aforesaid, and agreeing to the offer of composition, do not amount in number and value to four-fifths in number and value of the whole of the creditors who have proved debts against the insolvent estate, then the acceptance of such offer of composition by at least four-fifths in number and value of such last mentioned creditors must be certified to the said court by the said master at the time of the making of the said motion. And provided, that nothing in this section contained shall be construed so as to affect the right of any creditor entitled by law to be paid in preference, in so far as such creditor shall be so entitled, unless such creditor shall expressly consent to give up his preference, and be bound by the said composition, and no creditor by accepting any such offer of composition shall be deprived of his right to claim from any person bound to him as surety for the insolvent, the balance of the debt secured. And provided, that the court aforesaid shall not, in any case, pronounce the decree aforesaid until it shall be satisfied that no injury or injustice will thereby be done to any person who has been allowed by the said court to enter a claim upon the insolvent estate, and who shall not, at the time of the making of such motion as aforesaid, have yet proved his debt, and until the said court shall have made or caused to be made enquiry, by taking the oath of the insolvent, or otherwise, whether there are not other creditors having just and lawful debts and claims against the estate of such insolvent, and who, by reason of absence from the colony or other causes, may not have proved or claimed against the said estate. And provided that if, upon such enquiry, it shall appear to the said court that there are such just and lawful debts and claims, it shall not be competent for the said court to pronounce such decree as aforesaid, until it shall have been certified to such court by the said master that there has been paid to or deposited with him, or to or with some other person or persons with his approbation, for and on account of



such other just and lawful creditors as aforesaid, whatever amount, according to the terms of the composition, they would have been entitled to receive in case they had proved their debts. And provided that no sum of money or other matter or thing which shall be impounded or secured for any person who has entered a claim upon the insolvent estate, or any such creditor as last aforesaid, shall after any discharge of the insolvent as in this section provided, revert to such insolvent, but the same, in case the person or persons on whose behalf it was so impounded or secured, shall not, within such reasonable time as the supreme court shall fix, prove title to and claim the same, shall be ordered by the said court, upon the motion of any person interested, to be divided rateably amongst the remaining creditors and claimants, the costs of the motion last-mentioned being first deducted and paid to the party making the same.

*When all creditors consent, or have been satisfied, estate may be released from sequestration.*

107. And be it enacted that it shall and may be lawful for the supreme court, upon the application of any insolvent, to release, if it should so think fit, the estate of such insolvent from sequestration, whenever it shall be certified to the said court by the master of the said court, that all creditors who have proved debts or entered claims against such estate, have testified, in writing, their consent to such release, or whenever it shall be certified by the said master that all the creditors who have proved debts or entered claims as aforesaid, have been paid, or have had tendered to, or deposited for them, as the case may be, the full amount, as well principal as interest, of their several demands. Provided that no such application to release any such estate from sequestration under the provisions of this section shall be capable of being granted until after the third meeting of creditors as hereinbefore mentioned shall have been held. And provided that it shall be lawful for the said court, before granting any such application as aforesaid, to make or cause to be made such enquiry relative to the existence of other just and lawful creditors who have neither proved nor claimed as is in the last preceding section mentioned, and thereupon to grant or refuse such application, and that either absolutely or conditionally, as to the said court shall seem just. And provided that no such release as aforesaid shall be construed to be a discharge of the insolvent, or to alter or effect, in any way, the rights of any creditors of any such insolvent who have neither proved debts nor entered claims upon the insolvent estate,—which rights shall be judged of after any such release exactly as if such estate had never been surrendered.

*Account and plan of Distribution—and when to be laid by Trustees before the Master.*

108. And be it enacted, that the trustee or trustees of any insolvent estate shall, as soon as may be, and not later than six

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months after their appointment, unless upon application to the supreme court, upon sufficient cause to the satisfaction of the said court, further time be given for that purpose, frame and lay before the master of the said court, an exact account and balance of the said estate, containing the proceeds of all sales and debts then collected, and an account of all debts still outstanding, and an inventory of all property and effects still unsold, and also all debts due by the said estate; and shall also form a general plan for distribution of the assets of the said estate, specifying, first, such creditors as are preferent by law in the order of their legal preference, and, secondly, the concurrent creditors, and as nearly as may be, the probable balance which will remain for division amongst them. And when and as often as the usual place of residence of any insolvent shall be in any district of this colony, other than Cape Town and the district thereof, or the Cape Division, the trustee or trustees of that insolvent shall, before laying the account and plan aforesaid before the said master, lay the same before the resident magistrate of such district, in whose office it shall remain for the inspection of creditors, for at least seven days,—and every such resident magistrate shall cause to be affixed in some public place in or about his said office, a list of all insolvent estates in which such account and plan as aforesaid remains, for the time being, for inspection, together with the date of its intended transmission.

*As to inspection and notice thereof.*

109. And be it enacted, that, as soon as the master shall receive from the trustees any such account of the estate and plan for distribution, the same shall lie open in his office, for the inspection of the creditors, a reasonable time, to be appointed by the said master, not being less than fourteen days from the advertisement thereof, according to the distance from Cape Town of the residence of any creditor who has proved a debt against the said estate; and the said trustee or trustees shall cause notice thereof to be given in the *Government Gazette*, and that the supreme court will thereupon be moved to confirm and allow the said account and distribution of the estate.

*As to objections of Creditors thereon.*

110. And be it enacted, that it shall and may be lawful for the insolvent or any party interested in the estate under sequestration, and for any creditor who may conceive himself aggrieved by the said plan of distribution, within the time aforesaid, to enter his objection in writing with the said master, stating the grounds thereof; and, also, it shall and may be lawful for the supreme court to permit such objection to be entered at any time before the final confirmation of the said plan upon sufficient cause to be shown to the satisfaction of the said court, and upon such terms as the said court shall impose.

*As to proceedings before the Court thereon.*Ordinance  
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111. And be it enacted, that any person objecting to the said account or plan of distribution shall apply to the supreme court, on motion, calling upon the trustees, and also upon the party whose interest might be affected thereby, to shew cause why the said plan should not be altered or amended, as the case may be, and thereupon it shall and may be lawful for the said court, upon hearing the said parties, to make such order thereon, as to the said court shall seem fit : provided, that when any alteration or amendment shall be ordered in the said plan, whereby the interest of any party who has not made appearance in the said court shall be affected, the same shall again lie open for inspection of the creditors, and notice thereof shall be given as aforesaid.

*As to confirmation by the court, and effect thereof.*

112. And be it enacted, that it shall and may be lawful for the trustee or trustees, after the expiration of the time appointed for the inspection of the said account and plan of distribution, and no objection being entered thereto, or if any objection has been stated, after the court has made order thereon, as aforesaid, to apply to the supreme court, on motion, praying that the said plan may be allowed and confirmed by the court ; and thereupon it shall and may be lawful for the said court to allow and confirm the same ; and such allowance and confirmation shall have the effect of a final sentence of the said court except against such creditors as shall afterwards be admitted by the said court, in manner herein-before provided, to prove their debts, and rank upon the said estate at any time before the final distribution thereof.

*As to distribution of estate.*

113. And be it enacted, that after confirmation and allowance of the said account and plan of distribution, the trustees shall, upon the demand of the said creditors, distribute the said estate according thereto, and the remedy of any creditor to obtain payment of and dividend due to him shall be, during the continuance in office of the said trustee or trustees, to the supreme court, or any circuit court, by motion.

*Scheme of division what, and when to be framed.*

114. And be it enacted that if it shall, from the nature and circumstances of the insolvent estate, be found impracticable to frame the plan of distribution aforesaid, so as to arrange the distribution according thereto, of the whole of the insolvent estate, then the trustee or trustees shall, as soon as may be, after the allowance and confirmation of the said plan, and not later than six months after such allowance and confirmation, unless upon application to the supreme court, upon sufficient



cause to the satisfaction of the said court, further time be given for that purpose, frame and lay before the master a scheme of division which shall contain an account of such of the matters herein-before required in regard to the account and plan of distribution in the 108th section of this Ordinance mentioned, as the then state and condition of the assets of the insolvent estate shall permit, and shall duly apportion the funds in hand amongst the creditors, and the like proceedings in all respects shall be had and taken relative to the said scheme of division as are hereinbefore prescribed in regard to the said account and plan of distribution, and after the allowance and confirmation of such scheme of division, the dividends declared thereby shall be distributed, and there shall be the like remedy as aforesaid for obtaining the same. And if it shall happen that the whole of any insolvent estate shall not be included in one such scheme of division as aforesaid, then as soon as may be after the framing of the same, but not later (except as hereinbefore excepted) than six months after the date on which the six months above fixed for the framing of the first scheme of division shall have expired, a second such scheme of division shall, in like manner and form be framed, and proceeded on, and so on from six months until the whole estate shall have been wound up, and finally distributed.

*Unclaimed dividends how to be disposed of.*

115. And be it enacted, that the trustee or trustees shall, whenever any dividend is payable, give a public notice in the *Government Gazette*, stating that such dividend is in course of payment, and calling upon all creditors entitled thereto, to apply for, and receive the same; and in case any dividend or dividends shall remain unclaimed for the space of six months from the date of such notice, then it shall be the duty of the trustee or trustees, should he or they still continue in office, or of the master of the supreme court, should the said trustee or trustees have been discharged, to pay such unclaimed dividend or dividends into the guardian fund, to the credit of the parties entitled, there to be subject to the same provisions, in all respects, which are provided by the Ordinance No. 105, bearing date the 5th of July 1833, in regard to monies placed in the said fund belonging to persons absent from the colony. And if any trustee or trustees shall neglect to pay, in manner aforesaid, into the said fund, by the hands of the said master, any dividend remaining unclaimed for the space and term aforesaid, such trustee or trustees shall forfeit and pay, for the benefit of the colonial treasury, any sum not exceeding the amount of the dividend or dividends unduly retained, which shall be awarded by the supreme court, and it shall be lawful for the said master to summon any such trustee or trustees to show cause before the said court, why he or they should not be adjudged to pay to

him the amount of any such dividend or dividends, as also the fine or forfeiture aforesaid, and the said court shall summarily make such decision thereon as to it shall seem meet. And the said master shall be, at all times, after the confirmation and allowance of the plan of distribution, authorized and entitled to call upon such trustee or trustees to show, by vouchers or other sufficient proof, what number of the dividends payable are actually paid; and for the purpose of the penalty hereby imposed, any neglect or refusal to produce such vouchers, or other sufficient evidence to prove the payment of any given dividend, shall amount to *prima facie* proof that the same is still unclaimed. And it shall be lawful for the supreme court, in case of disobedience, by any such trustee or trustees, to any order or decision of such court, made by virtue of this, or of the 113th section, to direct the sum in question to be levied by attachment and sale of the goods of the offender, or otherwise to commit such offender to prison until he shall obey such order, or until the said court shall order his liberation, or, otherwise, to apply both remedies, and that either concurrently or successively, as the court shall see fit.

*As to resignation and discharge of trustees.*

116. And be it enacted, that when any trustee desires to resign his office, or so soon as the plan of distribution of the insolvent estate has been confirmed, it shall be lawful for such trustee to apply to the supreme court, by motion, for leave to resign his office, and to be discharged and acquitted of the said trust; and if no valid objection be stated, and if the court be satisfied that the trustee has complied with the regulations of this Ordinance, so far as regards him, his application may be granted by the said court; but if any objection be stated thereto, the court shall proceed to determine the same in a summary manner, and shall make such order thereon as they shall think fit. And if the application of the trustee for leave to resign be granted, the said court shall thereupon make such order as they shall see fit, for the preservation and administration of the estate, until a new trustee be chosen and confirmed, and for the discharge and acquittance of the said trustee, and for the security and payment of any unclaimed dividends to the parties entitled to the same. Provided always, that no order of the said court allowing the said trustee to resign, shall prevent the trustee thereafter chosen and confirmed in his stead from calling upon him to account for any part of his conduct as trustee prior to his resignation: and provided always, that before making any application for leave to resign, the trustee shall make out a full statement of his accounts, and of the situation of the insolvent estate, and shall call a meeting of the creditors to consider the same, of which meeting at least twenty-eight days' notice shall be given by advertisement in the

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*Government Gazette*, intimating the purpose of the meeting; and also, that the aforesaid statement will, in the mean time, lie open for their inspection in the office of the master of the supreme court.

*Time and mode of insolvent obtaining certificate and allowance thereof by the court.*

117. And be it enacted, that any insolvent may, after the third public meeting of his creditors called by the master of the supreme court as aforesaid, and after his examination (if any has been applied for and ordered as aforesaid) apply to his creditors for a certificate, testifying their consent to the discharge of the insolvent being granted by the court, in manner herein-after mentioned; and every insolvent who shall have obtained such certificate, signed by four-fifths in number and value of the creditors who have proved debts against his estate, or after six months from the date of the confirmation, in manner aforesaid, of the plan of distribution, then either by three-fifths in number and value of such creditors, or by nine-tenths in value alone, and who shall make oath, in writing, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction, in order to obtain the consent and certificate of his creditors or of any of them, may apply to the supreme court, by motion, to have his certificate allowed. Provided, that at least six weeks' notice of the day on which such motion is to be made, shall have been given by advertisement in the *Government Gazette*; and if no objection be made thereto by any of the creditors of the insolvent, the said court shall make an order, allowing such certificate; but if any objection shall be made by any creditor, the said court shall judge and determine thereon, and shall refuse or suspend the said certificate, or allow the same absolutely or conditionally, as the justice of the case shall require. Provided always, that where, in consequence of the goods and effects of the insolvent being under the value of *seventy-five pounds* sterling, the proceedings in such case directed by the 32nd clause of this Ordinance shall have taken place, it shall be lawful for such insolvent at any time, not being less than three months after the said first meeting, to apply to his creditors for a certificate as aforesaid.

*Fraudulent insolvent not entitled to certificate, and if obtained by him, it shall be void.*

118. And be it enacted, that, if any insolvent shall have committed any act herein declared to amount to the crime of fraudulent insolvency, such insolvent shall not be entitled to his certificate or allowance; and any certificate and allowance which such insolvent may have obtained shall be null and void.



*Contracts, &c. to persuade creditors to compound, or to sign certificate, void.*

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119. And be it enacted, that all preferences, gratuities, securities, or payments granted, made, or promised by any insolvent, to or in trust for any creditor of such insolvent, and all secret and collusive agreements and transactions intended to persuade any such creditor to accept any offer of composition, or security for composition, or to consent to sign such certificate, shall be, and are hereby declared to be, null and void : and any creditor who shall have received any money, matter, or thing, or promise of the same, as a consideration for or inducement to such creditor to accept any such composition, or sign any such certificate as aforesaid, shall forfeit a sum equal to the amount of whatever debt such creditor originally proved upon the insolvent estate, together with the amount of whatever money, matter, or thing he may have received from such insolvent, as such consideration or inducement as aforesaid, and also the amount of any composition which may have been paid or secured to such creditor : and all such monies, matters, or things hereby declared to be claimable or recoverable from any such creditor, shall and may be sued for and recovered in any competent court by any person who was a creditor of such insolvent estate at the time of the acceptance of any such composition, or the signing of any such certificate, for the use and benefit of such person jointly with that of all such other persons who were also creditors at the time aforesaid, as shall within twenty-eight days after a public notice in the *Government Gazette*, signed by the person purposing to sue, join and concur in the bringing of such suit, and agree to contribute to the expense thereof ; but no such notice need set forth the name of the party intended to be sued, or state more than that legal proceedings are intended to be taken under this section in a certain case of which the particulars may be learned from the person signing the said notice.

*Effect of certificate and allowance thereof.*

120. And be it enacted, that every such certificate, when allowed by the supreme court, shall have the effect to discharge the insolvent from all debts due by him at the time his estate was surrendered, or adjudged to be sequestrated, and from all claims or demands proved or hereby made provable, or in any manner claimable against his estate ; but no such certificate and allowance thereof shall have effect to release or discharge any person who was partner with such insolvent at the time of his insolvency, or who was then jointly bound, or who had made any joint contract with such insolvent, or who was a surety for him.

*Insolvent or representatives entitled to residue of Estate.*

121. And be it enacted, that in every case any residue of the

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insolvent estate which may remain after the payment of all claims thereupon, shall be paid to the insolvent or his legal representatives, to whom shall also be restored the property of, and in all debts and assets belonging to the estate which may, after the satisfaction, as aforesaid, of all claims, remain or be outstanding.

*Insolvent Trustee not discharged from Debt, and declared incapable of ever being again elected.*

122. And be it enacted, that any trustee becoming insolvent, and being indebted to the estate of which he was trustee, in respect of any sum of money improperly retained or employed by him, if he shall obtain his certificate and allowance thereof, shall not be discharged thereby, as to his future effects, in respect of the said debt, and such insolvent shall be for ever incapable of being again elected a trustee under this Ordinance.

*Mode of pleading certificate and of obtaining discharge from imprisonment thereon.*

123. And be it further enacted, that any insolvent, who, after his certificate has been allowed, shall have any action brought against him for any debt, claim, or demand due by him at the time his estate was surrendered or adjudged to be sequestrated, proved or hereby made provable, or in any manner claimable, against his estate, may plead in general that the cause of action accrued before he surrendered his estate, or the same was sequestrated aforesaid, and may give this Ordinance and the special matter in evidence; and such insolvent's certificate and allowance thereof shall be sufficient evidence of the insolvency, surrender, or adjudication, and other proceedings precedent to the obtaining the said certificate and allowance thereof; and if any such insolvent shall be taken in execution, or detained in prison for such debt, claim, or demand, where judgment has been obtained before the allowance of his certificate, it shall be lawful for any judge of the court wherein judgment has been obtained, (or for any judge of the supreme court) on such insolvent's producing his certificate and allowance thereof, to order any gaoler or officer who shall have the said insolvent in custody by virtue of the said execution, to discharge him therefrom, so far as regards such estate, without exacting any fee from the defendant, and the said gaoler or officer shall be and is hereby indemnified for so doing.

*As to Civil Imprisonment of uncertificated Insolvent, and proceedings thereon.*

124. And be it enacted, that at any time after the plan for distribution of any insolvent estate has been confirmed in manner herein-before mentioned, or after the distribution of the said estate has been directed to be made under the provisions of the 25th clause of this Ordinance, and before the insolvent shall have

obtained his certificate and allowance thereof, it shall and may be lawful for the trustees, or any creditor of the said estate, to apply to the supreme court or any circuit court, by motion, for the process of the said court for the civil imprisonment of the said insolvent; provided the said insolvent shall first have been duly summoned to appear before such court on the day whenever the said motion shall be made, to shew cause why process of civil imprisonment should not be issued against him, and thereupon, and upon proof, to the satisfaction of the said court, that the said estate is not sufficient to discharge the debts proved or provable against the said estate as aforesaid, it shall and may be lawful for the court to which such application shall be made, to grant the same absolutely or conditionally, or to refuse the same, as to the said court shall seem just. Provided that, when the application for civil imprisonment has been made by one or more creditors, and the said court shall suspend the same upon the condition of the insolvent paying any sum of money, such payment shall be made to the trustees or to the master of the court, as the case may be, for the benefit of the creditor or creditors making the application, and of such other creditors as shall, before distribution, claim to be admitted to a share thereof.

*Insolvent may apply for personal protection and proceedings thereupon.*

125. And be it enacted, that at any time after the plan for distribution of any insolvent estate has been confirmed in manner herein-before mentioned, or after the distribution of the said estate has been directed to be made under the provisions of the 25th clause of this Ordinance, and before the insolvent shall have obtained his certificate, and the allowance thereof, it shall and may be lawful for any insolvent to apply to the supreme or any circuit court, by motion, for a decree of such court, declaring such insolvent not liable to process of civil imprisonment, for or in respect of any debt, claim or demand, proved or provable, or in any manner claimable against the insolvent estate. Provided, that at least six weeks' notice of the day on which such motion is to be made shall have been given by advertisement in the *Government Gazette*; and upon the making of such motion, any creditor of the insolvent estate who has not been fully paid and satisfied may be heard against making the said decree, and such court having regard to the conformity of the insolvent to the provisions of this Ordinance, and to his conduct, as well before as since the sequestration of his estate, and to his ability to pay from time to time, or otherwise, any sum or sums of money for the benefit of such creditors as aforesaid, and, generally, to the justice of the case, shall judge of any objection against the making of such decree, and either find the insolvent entitled thereto, and make the same, or refuse or



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suspend the making thereof, or annex such conditions thereto as circumstances shall render just. And every such decree declaring any insolvent not liable to the process of civil imprisonment in respect of any of the matters aforesaid, shall have the same effect in protecting his person from such process as his certificate and the allowance thereof would have had. But no such decree shall have any effect whatever, either upon the assets of the insolvent estate or upon the right and power of any such creditor to proceed, in manner and form as hereinafter mentioned, against the future acquired property of such insolvent (so long as he shall remain without his certificate and the allowance thereof), in order to obtain payment of his debt. Provided, that upon cause shown to the satisfaction of such court, establishing that any such decree as aforesaid was fraudulently or unduly obtained, it shall be competent for such court to recall the same, and thereupon the condition of the insolvent shall be judged of precisely as if it never had been made.

*After confirmation of account and plan of distribution, insolvent, though uncertificated, competent to acquire property.*

126. And be it enacted, that from and after the making of the decree aforesaid, confirming the account and plan of distribution of the insolvent estate aforesaid, the insolvent, although he shall not have obtained his certificate and the allowance thereof, shall be competent to acquire and possess, for his own use and as his own property, all such goods and effects, moveable or immoveable, personal or real, as may be purchased or acquired by him, or may revert, descend, or be devised, or come to him in manner whatsoever other than by virtue of any right of reversion which was vested in the insolvent at the date of the order for the sequestration of his estate, precisely as if the estate of such insolvent had never been placed under sequestration.

*Future Property of uncertificated Insolvent, how to be made available to Creditors.*

127. And be it enacted, that in every case in which any insolvent shall not have obtained the allowance of his certificate as hereinbefore mentioned, it shall and may be lawful for the trustee or trustees of the insolvent estate, should any such be, or for the master of the supreme court, or for any creditor of the insolvent estate, to whom it shall appear by such account and plan as aforesaid, or any such scheme of division as aforesaid, that any portion of his debt is still due and owing, to apply to the supreme court, or any circuit court, by motion, of which notice shall be given to said insolvent, for leave to issue execution against such insolvent, for any sum not exceeding the whole amount of the deficiency which shall at the

time of making such application exist in the insolvent estate ; and the said court, upon being satisfied by affidavit or otherwise, that a certain deficiency does so exist, and that there are reasonable grounds for believing that there are assets belonging to the insolvent capable of satisfying the same, wholly or in part, shall allow a writ of execution to be issued, and such writ of execution shall be executed in the like manner as writs of execution issued upon judgments of the said court, and every attachment or levy made thereunder, and every incident belonging thereto, as well in regard to the right of other writs of execution lodged in the hands of the sheriff, or other proper officer of the law, to share in the proceeds levied and made, as otherwise, shall be judged of upon the same principles which do or shall by law belong to ordinary writs of execution ; and the proceeds of every execution levied under the provisions of this section shall be paid by the sheriff or other proper officer of the law to the trustee or trustees of the insolvent estate, if such there be, or, if there be none such, to the master of the supreme court, and every such payment by the said sheriff or other proper officer of the law shall be deemed in law to be the distribution of the proceeds of the writ of execution, and the amount of any such proceeds of the writ of execution, and the amount of any such proceeds which shall be so paid to any such trustee or trustees, or to the said master, after deducting thereout any costs which shall have been properly incurred by the party realising the same, shall be divided amongst all such creditors of the insolvent estate as shall before the distribution thereof claim to be admitted to participate in the same ; provided that the said trustee or trustees, or the said master, as the case may be, shall distribute such proceeds rateably and proportionably amongst the creditors so claiming, except that if the said proceeds shall have arisen out of an execution issued at the instance of any concurrent creditor, such creditor shall receive a dividend greater by five shillings in the pound than that receivable by any other creditor of equal rank ; and if by reason of their being preferent creditors in the said estate, or from any other cause the said recompense shall be deemed inadequate, it shall be lawful for the master of the supreme court to award to such concurrent creditor such reasonable commission in lieu thereof as he shall think fit, subject to an appeal to the supreme court : provided also that no division of such proceeds shall be made by any such trustee or trustees, or by the said master, until after twenty-one days' previous notice shall have been given in the *Government Gazette*.

*Uncertificated insolvent may surrender new estates.*

128. And be it enacted, that it shall and may be lawful for the chief justice of this colony, or any other of the judges of the

supreme court, to accept, if he shall see cause so to do, the surrender of the estate of any insolvent who shall not have obtained his certificate and the allowance thereof, at any time after the making of the decree of court confirming the plan of distribution as aforesaid, and the estate of any such insolvent may be adjudged to be sequestered at the instance of his creditors, as well those whose debts remain unsatisfied from any former sequestration (if there shall have been more sequestrations than one), as those whose debts have been incurred since the making, for the last time, of such decree as aforesaid, precisely as if the estate of such insolvent had never been placed under sequestration.

*Compulsory sequestration against uncertificated insolvent.*

129. And be it enacted, that in addition to the several matters and things hereinbefore mentioned and declared to be respectively acts of insolvency,—all of which are hereby declared to be applicable to the case of every such insolvent as is in the last preceding section mentioned, equally with every other person, the suffering of any attachment to be laid on, under and by virtue of any writ of execution issued under and by virtue of the 127th section of this Ordinance, and the subjecting himself by any such insolvent to the issuing against him of the process of civil imprisonment, under and by virtue of the 124th section of this Ordinance, shall be deemed to be, respectively, acts of insolvency in the case of every such insolvent as aforesaid, and shall entitle any creditor or creditors whose debt or debts is or are of the competent amount, and has or have accrued since the making of the last decree confirming such account and plan of distribution as aforesaid, to petition in manner and form as by this ordinance is provided, to have the estate of such insolvent as aforesaid sequestered for the benefit of his creditors. But no order for sequestration issued in regard to the estate of any such insolvent shall discharge or affect any process of civil imprisonment which may have been issued under and by virtue of the 124th section of this ordinance, unless the chief justice, or other judge making such order should, as he is hereby authorized to do, otherwise direct.

*Ranking of old and new creditors on insolvent estate, in case of a new insolvency.*

130. And be it enacted, that as often as the estate of any insolvent, remaining as aforesaid uncertificated, shall be again sequestered as insolvent, the creditors under any former sequestration shall prove debts and rank upon the insolvent estate for whatever balance shall still be due and owing to them, respectively, according to the nature of their respective debts, whether preferent or concurrent, just as if the last order for sequestration had been the only such order ever issued.



*Rule as to undue preferences by uncertificated insolvent.*Ordinance  
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131. And be it enacted, that in determining all questions relating to undue preferences given by any insolvent remaining as aforesaid uncertificated, and the proceedings thereon, and the consequences thereof, the creditors under any former sequestration, and those who have first become such since the making of the last decree confirming the account and plan of distribution, shall be considered as one body, and without difference or distribution except in so far as, in particular cases, the circumstances of the one class of creditors or of the other may affect, as matter of evidence, the application of the principles hereinbefore, in regard to such questions as aforesaid, stated and set forth.

*Alphabetical lists of uncertificated insolvents to be published in the Government Gazette every three months.*

132. And be it enacted, that the master of the supreme court shall cause to be published in the *Government Gazette*, once every three months for general information, two lists alphabetically arranged, the first showing the name and residence of every uncertificated insolvent in whose estate the account and plan of distribution aforesaid shall not have been confirmed, together with the date of the order for the sequestration of the estate of such insolvent; and the second showing the name and residence of every uncertificated insolvent in whose estate such account and plan as aforesaid shall have been confirmed, together with the date of the decree confirming the same. And the charge of publishing such lists in the said *Gazette*, as well as of inserting all such notices as are hereinbefore directed to be given by the master of the supreme court, by advertisement in the said *Gazette*, shall be defrayed by government.

*Provisions of this ordinance to apply to estates already sequestrated except in certain cases.*

133. And be it enacted, that all the provisions of this ordinance shall apply to and regulate all estates placed under sequestration in pursuance of Ordinance No. 64, in so far as the provisions of this ordinance, or any part thereof, shall be applicable thereto in the situation and condition in which such estates shall be, at the time of the passing of this ordinance; provided always, that nothing in this ordinance contained shall be applied to, or affect in any way, the rights of any person at whose suit any property shall have been attached by legal process at the time of the promulgation of this ordinance, or the determination of any actions or suits which shall be pending at the time of the promulgation thereof, all which rights, suits, and actions shall be determined according to the principles and provisions of Ordinance No. 64, precisely as if this ordinance never had been passed. And provided also, that all crimes created or

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declared by the said Ordinance No. 64, and committed before the promulgation of this ordinance, may, notwithstanding the repeal of the said ordinance, be prosecuted and punished precisely as if the said ordinance remained in full force and effect.

*When Ordinance 64 mentioned in any former ordinance, this ordinance to apply.*

134. And be it enacted, that as often as the Ordinance No. 64 is mentioned in Ordinances Nos. 104 and 105, or in any other former ordinance,—or any of the clauses or provisions of the said Ordinance No. 64 mentioned or referred to, every such former ordinance shall be construed as if this ordinance were therein mentioned, instead of Ordinance No. 64, and as if the provision of this ordinance corresponding to that provision of Ordinance No. 64, which is in such former ordinance referred to, were expressly substituted in lieu and stead thereof.

*As to records of proceedings under the ordinance.*

135. And be it enacted, that the master of the supreme court shall enter of record, and have the custody of all proceedings relating to any insolvency under and by virtue of this ordinance; and the insolvent, or any creditor who has proved, shall at all reasonable times have inspection of the same, and be permitted to take extracts or copies therefrom; and extracts of such proceedings, signed by the said master, shall be received as evidence in all courts of justice within the colony.

*Special commissioner upon illness, &c. of master or resident magistrate.*

136. And be it enacted, that whenever it shall be made to appear to the supreme court, or any circuit court, that the master of the said court or resident magistrate, as the case may be, is prevented by illness, or any unavoidable cause, from holding any meeting under the provisions of this ordinance, it shall and may be lawful for the said court to appoint a commissioner for the special purpose of holding such meeting, who shall have, for the purpose of such meeting, the same powers and authorities as are by this ordinance given to the said master or resident magistrate in like cases, and failing such appointment, the chief clerk of any resident magistrate is hereby authorized to exercise, for the purpose of any such meeting, the powers and authorities of such magistrate.

*In what cases the court may be holden before one or more of the judges.*

137. And be it enacted, that for the hearing and determination of all questions, matters, and things, as to which jurisdiction is given to the supreme court in virtue of the clauses of this ordinance hereinafter enumerated, that is to say, the 22nd, 25th, 31st, 40th, 45th, 62nd, 63rd, 64th, 65th, 98th, 113th,

116th, 117th, 124th, 125th, and 136th clauses, except as to so much of the 40th clause as relates to recalling the confirmation, and setting aside the election of any trustee or trustees, on the ground that such election was fraudulently or unduly made, the said court shall and may be holden in Cape Town, before any one or more of the judges thereof. at such times as the said supreme court shall by any rule or order of court appoint.

Ordinance  
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*Court to make rules, &c.*

138. And be it further enacted, that it shall and may be lawful for the supreme court, from time to time, as they shall think fit, to make such rules, orders, and regulations, for carrying this ordinance into effect, and also touching the form and manner of proceeding under the same, as to the said court shall seem fit.

*As to time of ordinance taking effect.*

139. And be it enacted, that this ordinance shall be in full force and effect from and after the date of publication hereof, from and after which day the ordinance No. 64 shall stand repealed.

*God save the Queen !*

Given at the Cape of Good Hope, this 24th Day of October 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,

Acting Clerk to the Legislative Council.

*Government Notice.*

WHEREAS it has been customary, for many years past, in cases of sale of landed property by public auction, for the several collectors of transfer dues in this colony, to receive the said dues on the sale price, or purchase money, certified by the auctioneer, without requiring the respective sellers and purchasers to take the oaths prescribed by the 2nd section of the proclamation bearing date the 2nd day of January 1818 ; And whereas it has further been customary, when landed property is sold by public auction, to permit the purchaser to dispose thereof to another person, without payment of transfer or auction dues, provided the transaction be closed and the new purchaser be accepted by the auctioneer, and his name inserted

Govt. Notice.  
Oct. 23, 1843.

Transfer  
Dues.



Govt. Notice:  
Oct. 26, 1843.

Transfer  
Dues.

on the vendue roll before sunset of the day upon which the original sale took place;—which customs are not only contrary to law, and injurious to the revenue, but, as experience has shown, tend greatly to encourage the pernicious practice of gambling by means of competition money and bonuses upon biddings;—Notice is hereby given, that his excellency the governor is pleased to direct that the collector of transfer dues in Cape Town, and the several civil commissioners in the country divisions, shall no longer receive such certificates from the auctioneers, nor permit the name of any other person to be substituted for that of the original purchaser in the manner above stated, but shall require the prescribed oaths to be taken, and demand the several dues, upon each and every such purchase, as upon distinct and separate transactions.

Colonial Office, Cape of Good Hope, 26th October 1843.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

No. 7, 1843.—(Signed) Geo. Napier.

*Ordinance,—For repealing the Church Regulations of the 25th July 1804, and enacting others in their stead.*

*Preamble,—De Mist's Church Regulations repealed.*

Ordinance  
No. 7, 1843.

Church  
Regulations.

WHEREAS the church regulations made and published by the Commissioner General of the then Batavian Government of the Cape of Good Hope, J. A. de Mist, L.L.D., bearing date the 25th of July, 1804, have, in many respects, ceased to be suitable either to the Dutch reformed church or to the ecclesiastical condition of this colony in general. And, whereas it is expedient, in order that other and more suitable provisions should be substituted for such portions of the regulations aforesaid as have become obsolete or inapplicable, that the said regulations should be wholly repealed, and the substance of such of them as it is desirable to preserve expressly re-enacted: Be it therefore enacted, by the Governor of the colony of the Cape of Good Hope, with the advise and consent of the legislative council thereof, that the said church regulations of the 25th of July 1804, and all other laws or customs heretofore in force in this colony, so far as the same are repugnant to, or inconsistent with, any of the provisions of this Ordinance, shall be and the same are hereby repealed.

*Government contributions gratuitous.*

2. And be it enacted and declared, that no religious com-

munity, or denomination within this colony, is or shall be entitled to claim, as matter of right, from or out of Her Majesty's revenue in this colony, any pecuniary contribution or allowance, for or towards the support of the ministry of any such community or denomination, or any other object whatsoever, and that all such sums as shall, from time to time, be granted from and out of the said revenue, to or in behalf of any such community or denomination, shall be deemed to be merely voluntary and gratuitous, and, as such, to be, at all times, and exclusively, under the absolute disposition and control of government, and revocable at Her Majesty's will and pleasure. <sup>(1)</sup>

Ordinance  
No. 7, 1843.

Church  
Regulations.

*Church to regulate its internal affairs,—general assembly to frame rules,—rules agreed upon in Nov. 1842,—these to have force for the time being.*

3. And whereas it is expedient, that the religious community or denomination commonly called the Dutch reformed church in South Africa should be invested with the power of regulating its own internal affairs: And whereas the general assembly or synod of the said church is the natural and proper ecclesiastical authority by which rules and regulations for the government of the said church in its own internal affairs may rightfully be made: And whereas the last general assembly or synod of the said church, which was held in Cape Town in the month of November 1842, did agree upon, and desire to have duly authorised and established, a number of rules and regulations, having for their object the proper direction and management of the said church in its own internal affairs: And whereas it is expedient, in order to prevent delay and inconvenience, that the said lastmentioned rules and regulations should, with some exceptions, be forthwith established, and declared to form and be the rules and regulations, for the time being, of the said church: Be it enacted, that all former rules and regulations for the government of the said church, whensoever and by whomsoever made, shall be, and the same are hereby declared to be, repealed, and that the several rules and regulations in the schedule to this ordinance contained, shall be, and the same are hereby declared to be, the rules and regulations, for the time being, of the said church, and shall be duly observed as such.

*New regulations how to be made.*

4. And be it enacted, that it shall be lawful for the general assembly or synod of the said church, from time to time, duly assembled, and proceeding in conformity with the rules or regulations for the time being in regard to the manner and form of altering, enlarging, or improving church laws and ordinances, to add to, annul, alter, enlarge, or improve the rules and regu-

<sup>1</sup> *Vide* Proclamation of 10th November, 1843; *infra*.

Ordinance  
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lations contained in the said schedule, and any further or other rules and regulations which may, from time to time, be successively established: Provided always, that any rule or regulation of the said general assembly or synod repugnant to, or inconsistent with, any of the provisions of this ordinance, shall be null and void.

*Vacant congregations—ministers, how to be appointed.*

5. And be it enacted, that in every case in which a vacancy shall occur in the office of minister in any congregation belonging to the said church, of which congregation the minister, for the time being receives a salary from the colonial government, the governor of this colony for the time being shall have and possess, and shall exercise in whatever manner he shall deem the best for the vacant congregation, the sole and unrestricted right of filling up such vacancy, by the appointment of whatever individual he may select from amongst the number of such ministers as shall by the rules and regulations of the said Dutch reformed church for the time being, be competent to be appointed to supply vacancies in the ministry thereof.

*Dutch Reformed Church—doctrine and government.*

6. And be it enacted, that the said Dutch reformed church shall be and remain a church, exercising its discipline and government by consistories, presbyteries, and a general assembly or synod, and acknowledging, receiving, and professing, in regard to the doctrine thereof, the doctrines contained in the confession of the synod of Dort and in the Heidelberg catechism; and if any questions or divisions respecting church government, discipline, or doctrine should hereafter arise between any members or reputed members of the said church, or of any congregation, consistory, presbytery, or general assembly of the same, then those persons adhering to, and professing, respectively, the said discipline and government, and the doctrines of the said confession and catechism, shall be deemed and taken as against all persons who shall adhere to and profess any different discipline, government, or doctrines, to be the true congregation, consistory, presbytery, or general assembly, as the case may be, of the said church, and as such, of right entitled to the possession, and enjoyment of any funds, endowments, or other property or rights by law belonging to the said church, or to the congregation, consistory, presbytery, or general assembly, in which any such questions or divisions shall have arisen.

*General assembly—how composed.*

7. And be it enacted, that the general assembly or synod of the said church shall, at all times, be composed of all acting ministers of the said church, and an acting or retired elder to be



nominated by each consistory; but the consistory of Cape Town may at all times nominate two elders.

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*Church laws to bind only as those of a voluntary association.*

8. And be it enacted, that no rule or regulations of the said church, whether contained in the schedule to this ordinance, or to be afterwards framed, shall have or possess any direct or inherent power whatever to affect, in any way, the persons or properties of any persons whomsoever. But all such rules and regulations shall be regarded, in law, in like manner as the rules and regulations of a merely voluntary association, and shall be capable of affecting the persons or properties of such persons only as shall be found in the course of any action or suit before any competent court, to have subscribed, agreed to, adopted or recognized the said rules and regulations, or some of them, in such manner as to be bound thereby in virtue of the ordinary legal principles applicable to cases of express or implied contract.

*Members, in certain cases, not competent to institute civil or criminal actions.*

9. And be it enacted, that no person or persons composing, complaining to, or giving testimony before any duly constituted judicatory of the said church, shall be liable to any action, suit, or proceeding at law, civil or criminal, at the instance of any member of the said church, for or on account of any matter or thing written or spoken by any such person or persons *bona fide*, and without malice, in reference to, or upon the occasion of any scandal, offence, or other matter, real or alleged, which, by the rules and regulations of the said church for the time being, should be reported to any such judicatory, and which any such judicatory is empowered to investigate, nor shall any action, suit, or proceeding at law be instituted for the purpose of preventing any such judicatory from pronouncing, in the case of any scandal or offence which shall be brought before it, and proved to its satisfaction, such spiritual censure as may, in that behalf, be appointed by the said church, or for the purpose of claiming any damages or relief in regard to such censures, if the same shall have been pronounced.

*Church Officers to sue and to defend suits.*

10. And be it enacted, that it shall be lawful for the person or persons in whom, by the rules and regulations of the said church for the time being, the possession or administration of any buildings, lands, funds, monies, goods or effects, belonging to any congregation, or presbytery, or to the general assembly, shall respectively be vested, to sue and be sued in all actions and suits relating to any matter or thing by any such officer or officers, respectively possessed or administered, as if the same were his or their private property, and in any criminal proceeding the pro-

perty of any of the matters or things aforesaid may be laid in the person or persons who, in any civil action or suit, might sue or be sued in respect thereof.

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## SCHEDULE.

### *Laws and Regulations for the direction of the Dutch Reformed Church in South Africa.*

#### FIRST SECTION.

#### *General Regulations.*

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Art. I. To the Dutch reformed church belong all who upon a profession of their faith, have been admitted as members; such as have been baptized in the Dutch reformed churches, and such as have been acknowledged in other countries as belonging to the reformed church, and have settled in this country, provided this have been made to appear by proper proofs and certificates of their baptism or membership.

2. These continue to belong to the reformed church as long as they have not voluntarily and distinctly declared themselves to have separated, or for lawful reasons have been separated from it.

3. The direction of the reformed church is executed by consistories, presbyteries, and the general church assembly.

4. The inferior church courts have the right of sending overtures to the higher, and in particular cases of asking their advice; while they, on the contrary, are obliged to comply with the orders and requirements of the higher courts, and in particular to forward, with all expedition, the communications and reports which are required of them.

5. An inferior church court considering itself aggrieved by the resolutions of a higher one, has the right of complaint to a still higher one, in the mean while, however, being bound to obey the orders received, unless the matter at its final decision could not again be brought forward in its entire state.

6. In all cases decided by the sentence of a higher church court, the appeal must be made to the court next following in rank, but after being decided for the second time, no new appeal is admissible.

7. The notice of cases prosecuted according to the preceding article in appeal must be taken in regular order, and no cases be brought before the supreme court which first ought to have been decided in the inferior ones, unless, in the mean while, no inferior court had been held, and the nature of the case required a speedier settlement.

All this, however, does not affect the right of the higher courts to take notice of cases even without appeal, which

concern the welfare of the church in general, and come under its jurisdiction.

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8. The interests of christianity, in general, and of the reformed church in particular, the maintenance of her doctrine, the increase of religious knowledge, the promotion of christian morals, the preservation of order and unanimity, and the cherishing of submission to rulers and the laws, must ever be the chief aim of all to whom in various relations the direction of the church is entrusted.

9. All church courts have to conduct themselves agreeably to the rules and ordinances, general and particular, which have been already passed, or may hereafter be legally passed.

10. In all church meetings the following rule of order is observed.

1. All presbytery and general church meetings are, under certain restrictions, held with open doors.

2. The meeting shall be opened with prayer, and closed with thanksgiving, which, except in consistorial meetings, shall be done by the scribe while all the members stand.

3. The meeting shall commence at a fixed hour.

4. All members of church courts are obliged to attend the same, unless prevented by lawful reasons; and, in case of non-attendance, they must give notice thereof in writing to the meeting.

5. After the opening of the meeting, the president gives notice of the matters to be brought before it.

6. In bringing forward the cases, the president observes that order which appears to him the fittest; and, on every point, gives the opinion first; he states distinctly the matters to be treated of, and during the treatment gives the necessary elucidations, and shall last of all give his vote.

7. It is earnestly recommended to the president, after, in cases of importance, he has gained the general sentiments, in order to come to a resolution, to make as short as possible a motion, or *alterutrum*, in order that the members, without further discussion, may give their votes with a single word.

8. Members shall vote singly, and no one shall remain without voting, except for important reasons to be judged of by the meeting.

9. In all cases coming before a church court, the majority of votes of the members present shall decide. But in complaints or disputes, no decision shall take place unless at least two-thirds of the members are present.

10. No one shall be permitted to speak before his turn, nor until asked by the president. In case of an equality of votes, the president shall in that capacity decide, except in courts where the president is consulent, in which court he only gives his advice; and in such cases decision by lot shall be resorted to.



11. Every member of a church court is at liberty, in the discussion of any matter, to communicate his sentiments thereon.

12. Every member of the assembly shall address the chair, and when alluding to preceding remarks of other members, shall not mention names.

13. When two or more members rise at the same time, the præses decides which shall first be heard.

14. It shall be optional for any member of a court to have his dissent from any decision recorded without stating his reasons, retaining the right, notwithstanding, of giving his reasons in writing, subscribed with his name.

15. Members of church courts have the right of voting in the further discussion of a matter concerning which they have already entered their protest.

16. Matters once decided shall not be again discussed ; observations, if any, are to be made on resuming the minutes, and not after they have been extended.

17. No motions shall be made in presbyteries and higher church assemblies, except in writing, and shall be signed by the mover.

18. At a subsequent meeting, the præses gives an account of what has taken place since the last meeting, and the decisions of the previous meeting are resumed and signed by all.

19. No one shall be permitted, either verbally, or in writing, to use insulting, invidious, or improper expressions, or in any way to forget the respect due to a church court.

20. Motions of importance, on which it may be requisite to report during the meeting, shall be presented to the præses at the commencement of the meeting, in order to lay the same before it as early as possible.

21. The præses proposes as members of commissions such of the members present as he may deem fit ; and should his proposal not meet with general approbation, the matter shall be decided by ballot.

22. None of the nominated persons can be discharged except for important reasons, to be judged of by the meeting.

23. The scribe takes notes of every thing that occurs or is resolved upon ; afterwards extends the minutes, and after they have been resumed and signed, executes the despatches proceeding therefrom, and signs the documents.

24. No one shall retire during the meeting without leave from the president.

25. Before the close of the meeting, the president asks every member whether he have any thing to propose.

26. At the close of each meeting, the president gives notice what points are to be discussed in the following meeting.

27. To the scribe of higher church assemblies, one or more members shall be joined for his assistance.

## SECOND SECTION.

*Concerning the General Church Assembly, and Synodical Commission in particular.*Ordinance  
No. 7, 1843.Church  
Regulations.

Art. 11. The highest direction of the reformed church in this colony, in church matters, belongs to the general church assembly (synod).

12. The general church assembly is composed of all acting ministers in this colony, and an acting or retired elder to be nominated by each consistory, with the exception of Cape Town, which may depute two elders.

13. The general church assembly is charged with the care of the general interests of the reformed church in this colony, and with regard to these, in an especial manner, with the care of every thing which relates to the public worship and church ordinances.

14. The decisions in appeal of the general church assembly, concerning matters treated in lower church courts, are final.

15. The general church assembly projects, alters, enlarges, and improves church laws and ordinances, which are signed by the moderators, and made obtainable through the press.

16. The general church assembly assembles every fifth year in Cape Town on the second Tuesday in October, and is convened by a notice of the scribe, sent three months previously to the respective churches.

17. Respecting the moderatorship of the general church assembly, the following regulations are to be observed :—

a. The credentials are called for and read by the scribe.

b. The members of the assembly take their seats according to the age of the churches to which the delegates belong.

c. After the credentials shall have been called for, the president shall be chosen by the members present by ballot.

d. The meeting elects in the same manner a secundus, who acts as assessor of the president, and in case of indisposition, occupies his place, after which remarks may be made upon the credentials.

e. As soon as the meeting shall have been declared by the president to be lawfully constituted, the solemn opening takes place.

f. At the solemn opening and closing, an appropriate sermon shall be delivered, this duty being performed by delegates from the presbyteries by turns ; so that the presbytery whose deputy closes the first meeting, opens the following, and so on ; at the last sitting of the general church assembly those presbyteries being named whose delegates are to perform the duty in the ensuing meeting

g. The president shall have the option, at the opening as well as the close, of delivering an address from the pulpit or the chair.

Art. 18. In order to prevent that by the lengthened period of time between the meetings, the progress of such matters as can admit of no delay should not be hindered, which might be injurious to the interests of the church, and church affairs in general, the respective presbyteries are charged and empowered with the treatment and settlement of such cases, but are bound and obliged to conduct themselves therein agreeably to the limitations of the general rules, and such resolutions of the synod as may exist for their guidance and instruction.

1. In case of difficulty or doubt the presbytery which it concerns shall be bound and obliged, before they make a commencement in the matter, to correspond and consult on the subject with the synodical commission.

2. Every thing which is done by the presbyteries in consequence of this measure, shall be subject to the approbation or disapprobation of the synod.

3. The presbyteries shall, however, retain the right and power, when circumstances demand it, to call for a synod, even within the limited time, with this understanding, however, that when the necessity thereof shall appear to the presbytery, the scribe of the presbytery where the difficulty arises shall communicate with the scribes of the other presbyteries, who shall then communicate their opinions on the subject to the actuary of the synod, and then the majority of presbyteries shall decide whether an extraordinary synodical meeting shall be held or not; he shall also consult with the synodical commission about the most proper time for the holding of the said special meeting, and convoke the synod as is described in article 17.

#### *Synodical Commission.*

Art. 19. There shall be a commission of the general church assembly of the Dutch reformed church in South Africa, which shall espouse the interests of the church when the synod is not assembled.

1. This commission shall watch over the execution of the church laws and resolutions, and correspond with the government, and ecclesiastical courts and persons.

2. The commission shall appoint days of thanksgiving and prayer according to the circumstances of the time, and further execute and complete whatever the synod has entrusted or may entrust to them with respect to matters properly belonging to the sphere of that assembly.

3. The commission shall, however, refrain from making new laws, altering the existing ordinances, or introducing new regulations, but is qualified to make proposals to the synod for that purpose.

4. The commission shall report to the synod all their proceedings, and submit the same for the approbation of that body.



5. This general synodical commission shall consist of the president of the last synod, or his secundus, the scriba, and one delegate from each presbytery, to be annually elected by such presbytery.

6. The commission assembles only in urgent circumstances, and at such place where their presence is most required, and where they can best carry on their proceedings.

7. All church courts are obliged to comply with the requisitions of the general synodical commission, and to give all such explanations as they may desire.

8. When any ecclesiastical body or persons shall deem that they have reasons of complaint on account of the conduct of this commission, they shall have the right of submitting their reasons of complaint to the general church assembly, in the meanwhile obeying, unless the matter, in its entire state, could not again be brought forward; in which case the commission, on the motion of the party aggrieved, shall be obliged to bring the matter before the general church assembly, and, if necessary, cause a synod to be convoked.

Art. 20 Proposals to the general church assembly may be sent in, not only by the presbyteries, but by each consistory and minister separately; but no proposals shall be accepted, (except in particularly urgent cases,) unless they have been sent at least two months before to the scriba of the synod, who is obliged six weeks before the meeting of the assembly to send a statement of all points for discussion to each consistory. In editing the proposals sent in, no alterations shall be made except in language and style.

21. An "actuarii synodi" shall be appointed from amongst the ministers, who shall act as such in the interval between the meetings of synod, communicating and consulting with the præses of the last general church assembly, if necessary, the actuarius being charged,—

*a* With transcribing, during the sitting of the general church assembly, from the proceedings of the assembly, each resolution that has to be printed, and preparing it in due form, that such resolutions may be read to the assembly and signed by the moderators on the last day of its sitting, and before the breaking up of the assembly.

*b* With conducting the correspondence, and keeping an account of matters relating to the synod.

*c* With the care of the synodal papers and books, besides the synodical repertory.

*d* With framing and continuing a systematical registry, in an alphabetic form, of the "acta synodi," kept under the title of the synodical repertory.

*e* Besides this he shall, to prevent accidents by fire or otherwise, as archivarius, take under his charge all the synodal papers,

documents, &c. watch over them and preserve them carefully, by placing them altogether in a well locked chest employed for that purpose, and that again for further protection and safety in a well secured church building.

*f.* He shall commence and continue a general registry of all that are baptized in, and all members belonging to, the reformed church of this colony.

*g.* He is especially enjoined to let no papers go out of his hands, even to such as are entitled thereto, except upon a receipt being given, and only for a limited time.

*h.* He will have to render an account to the next synod of all that has taken place in the mean time, allow his books, papers, &c. to be examined, and take care that the necessary parts of the archives be at hand during the synod, there being for that purpose a smaller portable chest, of which the actuary shall keep the keys.

*i.* His necessary expenses shall be refunded out of the synodal funds.

*k.* He is (*ex officio*) member of the synodical commission.

On the decease of the actuary and archivarius synodi, the synodical commission shall demand, from the heirs of the deceased actuary, the books, papers, &c. belonging to that office, and nominate and appoint, as his successor, one of the ministers, subject to the further approval of the synod.

Art. 22. There shall be a permanent scriba nominated by the general church assembly from among the ministers.

The scriba shall be charged,—

*a.* With the duties of scriba during the general church assembly and the meetings of the synodical commission.

*b.* With the executing of all the necessary despatches which do not require to be made public through the press.

*c.* With sending to the archivarius, at the farthest, within three months after the breaking up of the general church assembly, and one month after the meeting of the synodical commission, the proceedings of these assemblies.

*d.* In case of the decease of the scriba, or the occurrence of unexpected circumstances, or lawful hindrances in performing his duty, the actuary synodi shall act till the next general church assembly, when another scriba shall be elected.

23. There shall be a quæstor synodi, who is a member of the meeting, and who shall be charged with the following duties:

*a.* The quæstor of the synodal fund will have to keep an accurate registry of all monies paid and received on account of the fund.

*b.* He shall render an account to the synod of all his transactions as quæstor, and submit his accounts to be examined by auditors.

*c.* His books, on being approved, shall be signed by the

auditors, with the addition of the day and year on which it took place.

*d.* He shall for that purpose keep in a book preserved carefully apart, all accounts and original lists of monies collected and remitted to him by the quæstors of the presbyteries.

*e.* He shall deposit the monies in the savings' bank, and give security to the satisfaction of the general church assembly for the due administration of all monies received by him.

*f.* If the quæstors of the presbyteries do not transmit their lists and monies in due time, he is authorized to write to them and to report the defaulters to the synod.

*g.* The quæstor not being a delegate shall advise merely in matters belonging to his department. In case of the decease of the quæstor of the synodal fund, or the occurrence of unforeseen circumstances or lawful hindrances in performing his duty, the synodal commission shall demand from the heirs of the deceased quæstor, or any others in possession of goods, papers, &c. of that fund, such books, papers, monies, &c. belonging thereto; and shall nominate and appoint another as his successor, subject to the further approval of the synod.

24. There shall be auditors for the examination of all accounts of receipt and expenditure relating to the funds of the synod, who shall do this during the general assembly; not, however whilst a meeting is actually being held, but before or after; they shall produce their report thereon in the general assembly in such sitting as shall be fixed by the præses for that purpose; they shall be elected at each general church assembly, one from among the delegates of each presbytery.

### THIRD SECTION.

#### *Presbyterial Government.*

Art. 25. For the regular administration of church government, the churches are divided into presbyteries.

There shall be five presbyteries; namely:—

*a.* The presbytery of *Cape Town*, to which shall belong the churches of Cape Town, Stellenbosch, Paarl, Somerset, D'Urban, Wynberg.

*b.* The presbytery of *Tulbagh*, to which shall belong the churches of Tulbagh, Malmesbury, Worcester, Clanwilliam, Piketberg, Wellington.

*c.* The presbytery of *Swellendam*, comprehending Swellendam, Caledon, George, Breda's Dorp, Riversdale.

*d.* The presbytery of *Graaff-Reinet*, having the churches of Graaff-Reinet, Cradock, Beaufort, Somerset, Colesberg, and Swarteberg.

*e.* The presbytery of *Albany*, to which belong the churches of Uitenhage, Albany, Glenlynden, Balfour.

26. The presbyteries are charged with providing for the inte-



rest of religion, the preservation of good order, and the maintenance of the church laws within their bounds, the examination of subordinate spiritual teachers, the promotion of religious instruction, the providing for the increase of churches, the nomination of ministers consulent, who, on the occurrence of vacancies, or in case of a suspension, shall perform the duty; the making of church boundaries, the nomination of consistories in newly established congregations, the making of church visitations, and corresponding with the proper authorities in matters relating to the presbyteries. They decide the differences arising in or between the consistories of congregations, and give judgment in case of appeal upon all matters which, in the first instance, have been brought before the local consistories.

27. Members of the presbyteries are the ministers of each congregation within the bounds, together with an elder of that congregation, or, by substitution, any other member of the consistory nominated by that body.

Emeriti ministers shall be entitled to attend the meeting of presbytery, in order to assist with their advice, and shall sit amongst the delegates from that church where they were last stationed as ministers. Vacant congregations may have themselves represented by two elders, or by substitution, by two or other members of the consistory.

28. Each presbytery has a præses, the office of præses being assigned according to age, or the number of years that the ministers have been in the service of the churches, and in the nomination of the præses, the scribe of the presbytery shall be passed over.

The præses remains in office a full year, that is to say, till the commencement of the next stated meeting, but shall have to restrict himself in cases which occur, to the laws and regulations, and the decisions of the previous meeting.

29. In future a commission shall be appointed annually by the presbyteries, to manage provisionally such cases as can admit of no delay. This commission shall consist of three members.

30. In every presbytery there shall be a quæstor and permanent scribe to be elected by the meeting.

The quæstor is charged,—

a. With the receipt and accurate registry of all monies which are raised by each church within the bounds of the presbytery in behalf of the synodal and clergymen's widows' fund.

b. With demanding at every meeting of presbytery an accurate account of the sums raised for the synodal fund by each consistory, as well as of monies collected for the clergymen's widows' fund, and with rendering an account of the former sums, at the farthest, six weeks after the meeting, to the quæstor of the synodal fund, and of the latter to the quæstor of the widows' fund.

c. With the making of payments by order of the presbytery, and the production of his books at every meeting of presbytery, in order to be examined and signed by the præses and two members of the meeting; and with sending an authentic copy to every general assembly to be laid before the auditors who are charged with examining the books of the quæstor synodi. Besides that which is prescribed in the rule of order for the church courts, the scriba is charged,—

a. With corresponding with the scribas of the other presbyteries.

b. With drawing up and forwarding to the general assembly, at the termination of each meeting of presbytery, a general report of the church visitation then held, with distinct notifications of whatever demands the provision or the attention of the general assembly.

c. With drawing up and forwarding to the scriba of the general church assembly the points of discussion for the said assembly, and communicating to the præses of the commission of the general church assembly, the name of the member deputed to that commission.

d. With carrying into effect the communications of the præses of the presbytery, keeping in view the regulation contained in Art. 28.

e. With sending to the archivarius synodi at the farthest two months after the holding of the presbytery, the original records of that meeting, together with all documents belonging thereto, in order to be preserved among the archives of the synod.

f. In case of the decease of the quæstor of the presbytery, or the occurrence of unforeseen circumstances or hindrances in the performance of his office, the præses thereof must provide for the due preservation of his books, papers, &c. relating to the offices of quæstor and scriba: whilst at the next meeting his successor shall be appointed.

Art. 31. The stated meetings are held once a year on the second Tuesday in October.

The præses is authorised, with the approval of the synodal commission, to call special meetings, the reasons of such meeting being assigned when it is convened.

32. When boundaries are made, they are submitted to government for approval, and the expenses of the commission are borne by the persons interested, and on whose behalf such commission was appointed.

33. If difficulties should arise on the formation of new congregations, the presbyteries in determining to which presbytery such new congregation shall belong, must lay the matter for decision before the synod or synodal commission.

34. At every meeting of the presbytery proper enquiry shall be made by the præses as to the state of the churches belonging to that presbytery. For that purpose all the members of the

presbytery ought to be present; the absent members shall give, in writing, their reasons for absenting themselves, besides which, care shall be taken to send in the "resolution book," the written report of the state of religion, and copies of the "registries of baptisms," "members," and "deaths," authenticated by members of the consistory.

After the opening of the meeting, the præses, when the usual business is over, puts the following questions to the delegates, on which the answers drawn up in writing by each consistory, and signed by all the members of the consistory, are handed in and read :

1. Are all the ordinary religious services observed in your congregation on Sundays and holidays ?

2. Are stated sermons, at least once a month, delivered on the catechism ? Is the history of our Lord's passion expounded at the usual season ? and are sermons given from time to time on the articles of faith ?

3. Are preparation and thanksgiving sermons also delivered before and after the Lord's Supper ?

4. Is the Lord's Supper administered four times a year ?

5. Is there also a regular catechising held for instruction in bible history, and in the doctrines of faith and morality, and when practicable in church history ?

6. Are members admitted at the appointed time, and when is the time fixed by you for that purpose ?

7. Is there also a proper discharge of the pastoral visitation of the congregation, and especially of the sick ?

8. Is a proper superintendence maintained by the consistory over the congregation, and do the elders assist the ministers therein ?

9. Are the members of the consistory irreproachable in doctrine and conversation ?

10. Are the deacons careful in collecting and preserving the alms, and other receipts of the church and poor's fund ?

11. Is a proper account rendered of the collection and distribution ?

12. Does a retirement of elders and deacons take place regularly every year ?

13. Have minutes been kept of the proceedings of the consistory ? (Here the præses asks for a sight of the books )

14. Of how many individuals does the congregation consist according to estimation ; how many of them are members ?

15. How many individuals have been confirmed after examination, and how many have been admitted with certificates since last year ?

16. Are no certificates received which are older than a year, nor any given out to persons who have removed longer than a year, except for special and satisfactory reasons in both cases ?



17. Are the baptized, confirmed, removed, and (as far as practicable) the deceased members carefully registered? (Here he asks for the authenticated copies of those registers which remain deposited in the archives, and which the archivarius must get bound together as the general register of those baptized in, and those who are members of the reformed church of South Africa.)

18. Are catechists found in your congregation, and do they perform their duty as they ought?

19. Is care taken that no lay-preachers ("oefenaars") perform divine service in the congregation, without the consent of the minister?

20. Is there reason to complain of the state or the administration of the church buildings and property?

21. Is care taken that the duties as clerk, sexton, and other church officers are entrusted to properly qualified persons?

22. Are the clerks and sextons members of the church and of irreproachable conduct?

23. Are the reading and singing conducted with due reverence, to the real edification of the congregation, and according to the instructions of the minister?

24. Is proper care taken that in each separate part of the public worship all obstacles to religious edifications are provided against?

25. Do the members of the consistory regularly attend the meeting?

These questions being answered, the presbytery (in accordance with Art. 30, b. c.) acts as circumstances may require.

#### FOURTH SECTION.

##### *Church Government in the Congregation.*

Art. 35. In all congregations there shall be a separate consistory, consisting of the officiating superintendents and deacons of that congregation.

36. The conditions and duties of consistories are fixed and described in the following manner:—

1. The superintendents are either ministers or elders.

2. The members of a consistory hold annually at least four ordinary meetings.

They hold special meetings as often as circumstances require.

3. The office of president of the consistory is held by the minister, and in congregations where there is more than one, minister, by the ministers alternately every six months according to the length of their service in that congregation.

4. In every meeting of consistory, whether stated or special, the elder who has been longest in service, when no minister is present, presides.

5. Every consistory has, if possible, a permanent scribe;

and where this cannot be found, the office of scriba is performed by the president, or a member of the meeting chosen by the majority.

6. Stated as well as special meetings are always called by the president; the special meetings with notification of reasons. He is obliged to convoke them whenever one or more members of consistory, with a statement of the reasons, shall in writing demand the same.

7. Every consistory consists of at least one minister, whether the fixed minister, or the consulent of the congregation, of two elders, and four deacons.

8. If the majority of the members of consistory be absent, nothing shall be decided.

9. Every consistory has four members (besides a minister, or ministers and deacons,) twice as many elders as there are ministers members of that consistory. For every elder exceeding two, the number of deacons shall be augmented by one.

10. The consistory in a new congregation, with the exception of the minister or ministers, is appointed by the presbytery or a commission of the same. The members of consistory are as much as possible chosen from among the members of the newly-established congregation who have served elsewhere as members of consistory in the reformed church.

11. The consistory holds annually a combined meeting at least two months before the end of the year, to which meeting are invited, by being thrice published in the church, and admitted as nominators and voters, all retired members of consistory who are members of that church, in order for the number of officiating elders and deacons whose period of service expires at the end of the year, and who, therefore, have to retire, to propose elders and deacons by ballot, and from the persons thus proposed, to choose an equal number, to be submitted to government. Persons entitled to vote shall not, if absent, be permitted to send in their votes. No previous agreement or arrangement whatever with any person as to the nominating and choosing of members of consistory should be made. When the votes are equal, it shall be decided by ballot.

12. As elders and deacons, members of the consistory, are chosen the most pious, intelligent and respectable members of the congregation, not below five and twenty years of age for deacons, for elders forty, who are known for at least two entire years as members of the congregation, and who are not opponents of the existing ecclesiastical ordinances.

13. As much care as possible must be taken that no father and son, father-in-law and son-in-law; brothers and brothers-in-law be at the same time members of the consistory.

14. The persons nominated are without delay made acquainted therewith, and, after the said information, they are proposed

to the congregation by an announcement during the time of public worship on three successive Sundays.

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Regulations.

15. Such persons as refuse, without important reasons to be judged of by a meeting of consistory, to undertake the duty to which they have been elected, shall render themselves liable to a brotherly admonition from the consistory, and the congregation shall be made acquainted with the refusal.

16. The age of sixty years, as well as a period of service of twelve years, in whatever capacity, whether as elder or deacon, or both together, shall be considered as a sufficient reason for such persons to be excused from further duty; in like manner a period of service of six years as a deacon, shall be a sufficient reason of exemption from the further performance of that duty.

17. Every member has a right to prove to the consistory any incompetency on the part of one, or more, or all of the persons announced.

18. In case of such incompetency, the consistory holds, as soon as possible, a combined meeting, and chooses as many other members as are necessary to come instead of those declared incompetent.

19. Those who have been chosen and approved of by silence after proclamation on three successive Sundays, are installed in presence of the congregation at the end of the year, or so soon as possible in the beginning of the following year.

20. Officiating members of consistory remain in their office till new members of consistory shall have supplied their place, and the office is considered to commence as soon as they have been installed.

21. The period of service of each elder and deacon is limited to two successive years, after which he shall have to retire unless he be re-elected; but after having served four successive years, he shall not be re-elected, except he have been out of office at least for one year. At the nomination of new consistories, it is decided by lot, who are to retire in the first year after the election, and whose period of service on account of this limitation shall be computed for two years. Members of consistory re-elected shall be again installed.

22. In case of insurmountable difficulties in the nomination or installation of successors for the retiring members of consistory, the presbytery intervenes and acts according to the regulation with respect to a consistory which is to be formed. Sub. No. 10.

#### *General Rules with respect to the Duties.*

Art. 37. The official duties of members of consistory are—

1. To have the charge of what concerns the public worship.
2. To teach the congregation, and fit them for a better than an earthly life.
3. To watch over the conduct and morals of the members



and pupils of the congregation, to bring the wandering back, to strengthen the weak, in a fatherly manner to reprove the offending, and to exercise discipline with respect to them.

4. To provide for the poor and widows.

5. To attend to the affairs of the congregation, and to take care that all things be done decently and in order in the congregation.

6. To see, as far as practicable, that no one of another congregation partake of the communion without first giving notice to, and obtaining leave from the minister, or one of the overseers of the congregation.

7. In case of a vacancy in the office of church clerk, sextons, and undertakers, to appoint fit persons, and to submit them to government for approbation, such as receive salary from government.

Art. 38. The consistory appoints the hours for the usual public worship, keeps an account of its proceedings, provides for the proper keeping and registration of the archives, and of all documents received, as also for the exact registration of baptisms, of new members, and of such as leave the congregation, which registers are annually compared by a member, or by a commission of the consistory with the counter-book, and signed as "compared."

39. The consistory takes care that a proper report respecting the state of religion, be sent to the presbytery; and also that the synod and clergymen's widows' fund monies be regularly accounted for, agreeably to the following form:—

The consistory of the reformed church at \_\_\_\_\_, hereby acknowledge that in the congregation within their bounds there has been raised for the synod fund during the year 18\_\_\_\_, the sum of £\_\_\_\_, being for

Baptisms at the usual time	-	-	-	£
Do. out of the usual hours	-	-	-	
Seat rents	-	-	-	
Burial fees (where customary)	-	-	-	
For the clergymen's widows' fund	-	-	-	
Marriages out of the usual time	-	-	-	
Confirmations ditto ditto	-	-	-	
Collections, &c.	&c.	-	-	
				Total £

The \_\_\_\_\_ of the year,

Members of the consistory.

40. The consistory takes care that there be brought to the meetings of presbytery the resolution book, besides authenticated copies of the registers of baptisms, members, and, as much as possible, of deaths.

41. On the occurrence of a vacancy in the office of minister,

the consistory conducts itself agreeably to the rules respecting vacancies.

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42. The consistory remains charged with the care and direction of the church, and the poor's fund, the parsonage, and all church buildings, monies, and funds.

Church  
Regulations.

No sale or mortgaging of church property shall take place, but by authority from the governor for the time.

### *Particular Regulations.*

#### *Art. 43. — § 1.—Duties of Ministers.*

*a.* They provide in the best manner, with the previous knowledge and advice of the consistory, for the pastoral work in the congregation.

*b.* They are bound to preach stately, especially also on the catechism, and the history of our Lord's passion; from time to time to preach on the articles of belief, and to deliver the usual preparation and thanksgiving sermons, before and after the Lord's supper.

*c.* They hold catechising for old and young, who have not yet made a profession of their faith, as well on bible history as on christian faith and morality, and, if possible, on church history.

*d.* They shall hold stated and proper religious family visitation.

*e.* They are obliged to visit the sick, unless when lawfully prevented, and to repeat the visits as often as possible.

*f.* To them is entrusted the direction of the ceremonies of the public worship, with the previous knowledge and advice of the consistory.

#### *§ 2.—Duties of Elders.*

*a.* They are bound as much as possible, by instruction, exhortation, example, and consolation, to promote the welfare of the members,

*b.* They are bound to assist the minister, when requested, in the pastoral work.

#### *§ 3.—Duties of Deacons.*

*a.* The deacons provide for the collection of the alms and for the support of the needy members of the church.

*b.* They attend to whatever leads to the discovery, extension, or promoting of the funds and means for the support of the needy.

*c.* One of the deacons, namely, the cashier of the church fund, is bound to conduct himself according to the following instructions for the cashier deacon:—

1. He shall pay no account without the advice of the consistory, unless they had previously been agreed upon.

2. He shall pay no accounts without being provided with the necessary receipts, which he must produce at the first meeting in the year, at the closing of the church accounts.

3. These receipts shall then be put together and kept apart.

4. No monies shall be put out on interest without sufficient security, and notarial bonds or mortgage.

5. Money put out to interest must be for an unlimited time.

6. He shall not be permitted to give any one money on interest, but after having previously obtained the consent of the consistory.

7. He shall be responsible for all monies which he puts out, or has put out, without the previous knowledge and consent of the consistory.

8. He takes care that there is always a sufficient sum of money in the chest at the disposal of the consistory.

9. He keeps the great or debt book, and takes care that the interest due be properly paid as well by him to the creditors, as by the debtors to the church. In case of the refusal or delay of the debtor, he has the right, without the previous knowledge of the consistory, of calling in the capital, and of compelling them in the usual manner to the payment of their debt,—all this, however, he shall report at the first following meeting.

10. He is charged with the receipt and keeping of the monies which must be raised in the congregation for the benefit of the synod and clergymen's widows' fund. He keeps a separate account thereof, and, on making his reports, puts the delegates to the presbytery in possession of the amount of the monies in hand for the year ending with the last of September.

d. The cashier deacon, or a member of the consistory in his stead, sits in the vestry of the church with which he is connected, during two days in the last week of January of each year, in order to allow the members of the congregation insight into the church accounts, and the books in consequence kept; the hours during which he will sit are previously announced to the congregation.

e. With respect to the alimentation of the poor, the deacons take care that none but those who have been at least one year and six weeks members of the congregation, shall lay claim to any support from the poor's fund of such congregation; and that in case of necessity, the allowance of alimentation be continued for a year and six weeks to paupers passing to another congregation, and that, on the decease of paupers, the resolution of the governor and council in 1769 be observed. If, however, the consistory should experience opposition, in the execution of the said resolution on the part of those interested, they shall, if it should be considered of importance to the poor's fund, take proper legal advice upon the subject and act accordingly.

44. Every consistory has the right of making special domestic



regulations, provided they are not contrary to existing church laws and regulations.

45. No minister shall preach in the parish of another, especially on the Lord's day without giving notice to the minister of that parish, or, in his absence, to the consistory; and the monies collected on such occasion shall be remitted to the church fund of the said parish; but on receiving notice not to proceed therewith, he shall be obliged to comply with the requirement of such notification.

46. The baptizing of children and adults, or the admission as members of any one from another congregation, shall not be allowed to take place without a written permission from the minister of that congregation.

47. In vacant congregations the above shall not take place without notice thereof being previously given to, and permission obtained from, the consistory or consulent minister of such congregation; and, after performance, a due report thereof shall be forwarded to the said consistory or consulent.

48. When parents of illegitimate children are freed from church censure, baptism may be administered to their children without other sponsors; but, if this, on account of the continuance of their unchristian conduct, cannot take place, and they can obtain no other persons as sponsors, such children shall then remain unbaptized, till they shall be able to make a profession of their faith, and thus be entitled to receive baptism.

49. Children above seven years of age shall not be baptized, but must remain unbaptized till they shall have made a profession of their faith; and on this point no discretion shall be allowed to ministers.

50. Except in very urgent cases, baptism shall be administered during the public divine service, and the fixing of the sum to be paid for such extra baptisms, is left to the respective consistories. The poor shall pay nothing.

51. To the members of a newly established congregation, church certificates shall be granted gratis, but only by those churches to which they belonged before the erection of the new congregation, and from which they have thereby been separated.

52. Consistories are allowed the liberty of fixing a certain hour on any day besides sabbath, for the celebration of marriage without payment of Rds. 25 to the clergymen's widows' fund.

53. The consistory, in every congregation, provides a proper dwelling for the minister.

54. The members of a congregation shall not be permitted to take measures which must lead, or might easily lead, to a division of the congregation to which they belong, unless they have received permission for that purpose from the minister or ministers of the congregation, in particular, and from the consistory in general.

## FIFTH SECTION.

*Religious Instruction—Religious Instructors, their qualifications, and the supervision of Religious Instruction.*

*I. Religious Instruction in general.*

Art. 55. By religious instruction is understood the instruction both of beginners and of the more advanced in scripture history, and the doctrines of faith and morality, especially of those who desire to be admitted as members of the reformed church; and this both by the ministers, and under their superintendence by other fit and qualified persons; this instruction to proceed gradually, and to be adapted to the capacity of the different learners, while, particularly with the more advanced, this instruction ought as much as possible to take place in public as well as privately; and it is recommended to the ministers zealously to aim at extending the knowledge of scripture history as well as of doctrine, whilst at the admission of members attention must be paid to the progress of the pupils in both. It is also most strongly recommended to impart to the learners, according to their capacity, some knowledge of church history.

*II. Religious Instructors and their qualifications.*

Art. 56. Religious instruction being one of the principal duties of pastors and ministers, they are bound to apply themselves with all diligence to increase their congregation with well informed and worthy members, and to employ every means, either personally, or by other instructors placed under their inspection, in order that the necessary instruction may be imparted at a seasonable time of life, or according to every one's situation and age, in the English as well as the Dutch language; the Heidelberg catechism and the "Abstract" ("Korte Legrip") being regarded as the fundamental books of instruction, which, together with the formulas, will, through the press, be made obtainable in English;—besides which it will be at the option of the ministers to cause such other books, proceeding from the bosom of the reformed church, to be used by the instructors as they may judge necessary for the promotion of instruction in the reformed religion, and which, if need be, shall be approved of by the general assembly.

57. Where necessary, ministers who are able shall preach in English, and are encouraged to do so, provided this can be done without injury to the Dutch congregation, and after previous notice to the consistory respecting the use of the church for that purpose.

58. Among other qualifications in the subordinate teachers, it is required that they should be members of the reformed church, and that they as such have been resident in the congregation at the least two years; that they have conducted themselves in an

irreproachable and exemplary manner, and have at the least for two years exercised and prepared themselves decidedly for giving religious instruction, under the efficient training and superintendence of some minister or another of their community.

59. Such instructors, catechists, or lay preachers (seefening-holders) shall, for the said purpose, on the recommendation of the properly qualified church court within whose bounds they are, undergo a suitable examination by the presbytery, and that both in sacred history, the contents of the scripture books, the doctrines of christian faith and morality, and on the principal points of the history of Christendom;—trial shall also be made as to their talent for instructing, and, being admitted, they shall continue under the superintendence and direction of the ministers.

60. No one, even after passing a satisfactory examination, shall perform that work unless, after approval, he shall have signed the following declaration :

“ We, the undersigned, having been examined by the presbytery of \_\_\_\_\_ and admitted to give religious instruction, declare in good conscience, that we heartily embrace the doctrine which is contained in God’s holy word, and the formulas of uniformity in the reformed church, promising to teach them faithfully in our instruction, and to conduct ourselves in every thing in conformity to the rules for religious instruction, submitting to the judgment of the presbytery if anything contrary to the same be done by us.”

Nor even after signing, unless he has received a licence to the following effect :

“ The presbytery of \_\_\_\_\_ having examined N. N. a native of \_\_\_\_\_, years of age, living at \_\_\_\_\_, declare him qualified to fill the office of religious instructor, and, after election to the said office by the consistory of a congregation, entitled to give religious instruction in that congregation in conformity to the rules concerning the same.”—Which licence, when received, shall in every other church court in which it is produced, be deemed sufficient qualification to be elected within its bounds, if at the time there exists no reason to the contrary.

61. With regard to the ordaining of missionaries, the following rules shall be observed :

Missionaries ordained by our reformed church, shall be so ordained for places beyond the frontiers of the colony only.

1. A missionary wishing to be ordained, whether he comes from another country, or has qualified himself here, shall for the attainment of his object, apply to one of the presbyteries.

2. The presbytery shall not admit such an application, until the applicant shall have produced the following certificates :—

a. If he comes from abroad his “ leave of residence.”

b. The certificate of his being a member of the christian reformed church.



e. His licence to act as a missionary.

3. The application having been laid before the presbytery and approved, the applicant must submit to an examination before the presbytery upon all the subjects mentioned in Art. 59, as well as upon the art of expounding, and the pastoral duty, and give proof of his skill in the art of preaching, at which examination, although it is conducted by the moderator, each member of the presbytery will be at liberty, if he chooses, to ask the candidate any question, provided he does not interrupt the president, but waits until an opportunity is given.

4. This examination having been concluded to the satisfaction of the presbytery, he receives his qualification to administer the holy sacraments.

5. Those who have already been ordained as missionaries within the colony, remain subject to the regulations under which they have been ordained, and those who are hereafter to be ordained, shall make and sign the following declaration :

"We, the undersigned, missionaries for the propagation of christianity among the heathens of South Africa, professing the christian religion, and continuing in the profession which we formerly made as members, now also at the conclusion of this our present theological examination, hereby repeat most solemnly the conscientious declaration, that we heartily embrace the doctrine which, agreeably to God's holy word, is contained in the formulas of uniformity in the Dutch reformed church, promising to follow and teach the same faithfully in our religious instruction and also to conduct ourselves precisely in conformity to the rules relating to religious instruction in the reformed church establishment in this colony."

"And as the presbyterial meeting of the reformed church in this place, have, on our application, and in their supreme judgment, been pleased, by their resolution, to admit us in our relation as missionaries, not only to the administration of the word, but also of the christian ordinances *Baptism* and the *Lord's Supper*, we hereby declare and promise most solemnly, that, most carefully avoiding all collision and infringement with and upon the rights of established christian congregations, we will, in the administration of these ordinances, confine ourselves entirely to the practice of the reformed church, submitting ourselves, in case of any transgression of the same, and also of unhopd for immoral conduct, to the judgment of the church court, whose province it is to take cognizance of such matters."

"I make the above declaration, by means of this my signature, uprightly, as in the sight of God."

6. This declaration being signed, the presbytery proceeds to ordain the candidate, after which the president, in the name of the presbytery, making a suitable address, and invoking a blessing, delivers to him his licence.

*Form of the licence for missionaries to administer the holy christian ordinances, Baptism and the Lord's Supper.*

Ordinance  
No. 7, 1843.

Church  
Regulations.

“Whereas N. N. has presented himself before the presbytery of the Dutch reformed church in South Africa, assembled at  
requesting to be admitted as missionary to the administration of the holy sacraments amongst the heathens brought to christianity beyond the frontier; the said meeting, after the above mentioned person had performed all that is required in the rules on that head, dated 11th November 1842, had no hesitation to declare him, as is hereby done, qualified for that purpose, under the restrictions determined in the rules just alluded to,—this certificate serving him as a licence to do so.

Given thus in \_\_\_\_\_ on the presbyterial meeting  
of \_\_\_\_\_

N. N. President.

N. N. Scriba.

7. Such as have been confirmed and baptized by a missionary ordained by one of the presbyteries, shall also be recognized as full members of the reformed church, and be registered as such, on producing their certificates signed by the missionary, or, in case of the decease of the missionary, the registries of baptisms and members.

Art. 62. With regard to the examination of those who wish to be admitted to the ministry, it shall be conducted according to the following

*Rules for examining.*

1. The examination consists in a trial as to the skill which any one who wishes to be admitted to the ministry possesses in every thing that is required for its proper discharge.

2. The object of the examination is, to provide against any being admitted but such as possess the requisite knowledge, and also to give such as have prepared themselves with laudable industry, an opportunity to show their qualifications, and thereby gain themselves a favorable recommendation.

3. The examination must be undergone by all who, after completing their studies, desire to be admitted to the ministry, in whatever language they intend to preach.

4. The examination is held *before the synod*, by a committee to be appointed for that purpose, consisting of five members not connected with the candidate in the three first degrees of consanguinity.

5. No one who desires to be established as a minister in the reformed church of this colony, shall be admitted to the examination, unless he shall have finished his theological studies at the seminary hereafter to be established, or at one of the foreign universities belonging to the reformed church.

6. In order to be admitted to the examination, the following testimonials are required.

*a.* For those who come from abroad, a certificate of having studied for 3 years at least in the faculty of divinity; and for those who have been educated here, a certificate of having successfully attended, for five years, the lectures on the exposition of the old and new testament, doctrinal subjects, and christian morality, as well as church history.

*b.* A church certificate, purporting that the candidate has been more than four years a member of the reformed church.

*c.* A testimonial from the professor of the university where he has finished his studies.

1. Of diligent attention to all the above named lectures, and the progress shown.

2. Of having preached at least three times "sub præsidio."

3. Of good moral conduct.

7. Every one that wishes to be admitted to the examination will have to report himself to the "actuarius synodi," at least three months before the holding of the synodal meeting, and at the same time, to produce the documents mentioned in the preceding articles.

8. The actuarius synodi having found the testimonials satisfactory, informs the applicant that he is admitted to the examination.

9. All the members of the committee appointed by the synod shall take part in the examination, with a view to which the synod shall so divide the business, that each of the members may examine more closely than the rest, in one of the branches to be mentioned in Art. 11, but this decision shall never be made known to the candidate beforehand.

10. No previous trials shall be allowed to take place.

11. The subjects of the examination are:

*a.* Expounding the scriptures.

1. For expounding the old testament, it is required to translate into latin two chapters, each taken from a separate book, besides showing the sense or meaning on analytical principles.

2. For the new testament a similar translation and an explanation of two separate chapters, by which also an opportunity may be given to show that the candidate is not unskilled in criticism.

*b.* Church history.

*c.* Doctrinal divinity and its history In this branch he shall be principally interrogated on all the characteristic tenets of the reformed church.

*d.* Christian morality.

*e.* The art of preaching, and the duties of the pastor and overseer's office.

The candidate shall show his abilities for preaching both by written composition, and oral delivery.

During the examination the synod determines how long the examination on any branch shall be continued.



12. A candidate being found competent shall declare, on his solemn oath, that he has not for the purpose of gaining a situation, made any agreement, or given any present, nor ever will make or give, and that he is not conscious that such has been, or will be, made or given by any one for him, or on his behalf, and that he will never seek or accept any situation which he may suppose is presented to him through any bargain, promise, or any means whatever of previous agreement.

13. The candidate will, moreover, be obliged to make and confirm with his signature the following declaration and promise. —“ I, the undersigned, admitted by the synod of the reformed church in South Africa, to the office of public preacher in the reformed church, hereby uprightly declare, that both in doctrine and deportment I will carefully consult the interests of christianity in general, and of the reformed faith in particular; that I faithfully embrace, and heartily believe, as agreeable to God's holy word, the doctrine contained in the adopted formulas of uniformity of the reformed church; that I will diligently teach and maintain these doctrines, and that I will apply myself with all zeal to the advancement of religious knowledge, christian morality, order and harmony;—binding myself by this my signature to all the preceding: and if I should be found to have acted contrary to any part of this declaration and promise, to submit in every respect to the decisions of the proper church courts.”

14. Upon this the candidate shall, with a suitable address from the president, be admitted to the ministry, and the following certificate, signed by the president and scriba of the synod, be delivered to him.

“ N. N. having appeared before the synod of the reformed church in South Africa, requesting to be admitted to an examination, in order to gain admission as a preacher, and we having found that his church certificate as well as the testimonials delivered by the professors of sacred theology in and especially as to his moral conduct, were satisfactory, have made no difficulty in admitting him to an examination, and according to the 11th article of the rules for examining, have carefully questioned him in respect to all the branches mentioned in the said article, with such a result that we have admitted the said N. N. to the ministry, he having taken the solemn oath required by Art. 12, besides having solemnly made and subscribed, as required by Art. 13, the declaration of agreement with the doctrine which, conformable to God's holy word, is contained in the adopted formulas of uniformity of the Dutch reformed church.

15. Such as are thus admitted to preach the gospel shall bear the name of “ candidates for the sacred ministry” (sacri ministerii candidatii).

16. Of this examination and its results, with the addition of the particulars of the case, notice shall immediately be given to her majesty's government.

17. After his admission, the candidate may accept a call from any congregation, attention being paid to the directions given on that subject in the rules relating to vacancies.

18. The candidate, whether he be admitted to the administration of the gospel in this country, or elsewhere, in a lawful manner, or receiving a call, shall, in order to be admitted to minister in the congregation to which he is called, shew his letter of appointment to the "*actuarii synodi*," and sign a declaration that he will uprightly persevere in the declaration and promise which he before signed. (See Art. 10.)

19. The presbytery has authority to consecrate candidates to perform the duty as assistant preachers, or, when they are going beyond the boundaries, to propagate the gospel, provided they are able to prove that they are lawfully appointed to a community, and the presbytery shall cause the documents to be duly registered with the "*actuarii synodi*."

Art. 63. *a.* The ministers of the reformed church who come out for this colony will, on their arrival, require to legitimate themselves with the *actuarii synodi*. The latter shall immediately report thereon to his excellency the governor. When entering upon their office, they shall, previous to their being presented to the congregation, likewise show their testimonials, their licence, and their appointment, to the president of the presbytery within whose bounds that congregation is situated.

*b.* The subscriber of the deed, on legitimizing, declares and certifies by his signature, that he considers the doctrine which is contained in the formularies of uniformity of the reformed church to be in conformity with God's holy word.

*c.* The installer of any minister that comes out must demand a certificate that the necessary documents have been shown also to the president of the presbytery.

### III. Care of Religious Instruction.

Art. 64. In places where religious instruction is given in the reformed doctrine, in prisons or other edifices, that religious instruction shall not be entrusted to such as do not belong to the reformed church, and these instructors having obtained legal permission from the church, on exhibiting proofs of their ability, shall be subject to proper rules and restrictions similar to what is above said of other subordinate instructors.

65. Such as have legal permission to hold religious meetings, will have to discharge their duties as follows:—

1. Under the term "religious meeting," is not understood any particular meeting in which a few friends come together to be useful to each other by reading God's word and other edifying

books, by mutual conversation, singing psalms, and praying, to the advancement of the knowledge of the truth which is to salvation; but such assemblies in which, at times fixed, and previously announced, one or more members of our church, in the presence of a greater or less number of hearers, hold forth on divine truths.

2. No such lay-preachers will be allowed to hold meetings within the bounds of another congregation without having first sought and obtained permission from the minister of the congregation.

3. Persons to whom liberty may be given to hold religious meetings, shall promise as follows:

*a.* That they will guard against all expressions and statements which might give rise to party feeling and division in the community, and on the other hand will exert themselves to preserve the bond of affection and uniformity of faith, and be very careful to cast no reflections upon government, or its administration, nor upon the minister, or his doctrine and administration.

*b.* That they will confine themselves purely to the word of God, and the formularies of our reformed church founded thereon; and that they will never give utterance to any thing opposed thereto.

*c.* That so far from drawing people away from attendance upon public worship performed in and amongst their congregation, they will, on the contrary, both by their teaching and example, recommend the observance thereof, and will consequently never hold a meeting during the hours of public worship, or so as to infringe in any degree on such hours.

*d.* That when called upon to do so, they will be at all times prepared to speak, either with the minister, or the minister and elders, or with the consistory, and to be questioned about their meetings, and that admonitions being given, they will with meekness receive and obey them.

4. Of the times and places at which meetings are held the consistory must receive proper notice.

Art. 66. It will be one of the principal duties of the ministers on suitable occasions in their spheres, and especially in their presbyteries, to call each other's attention to the state of religious instruction, to make communications on that subject, and to consult upon the best means of promoting it.

They shall properly assist and train such as wish to qualify themselves for giving religious instruction, as subordinate instructors.

67. The admission of members is committed to the ministers alone, who shall be therein accompanied by one or more of the elders.

68. In future no male under 16, and no female under 15 years of age, shall be admitted to the examination in order to



become members of the congregation; and in doubtful cases it will be necessary for the applicants to produce from the baptismal register a certificate, signed by the sexton or clerk of the church where they were baptized, which shall be given to them "gratis."

69. The confirmation or presentation of members shall take place in public. This presentation shall consist in their ministers', or one of the ministers, in presence of the congregation, putting from the pulpit the following questions to those who are admitted.

1. Whether they heartily believe the doctrines which they have professed?

2. Whether they have determined, by the grace of God, to abide by these doctrines, to forsake sin, and to lead a christian life?

3. Whether they submit themselves to the superintendence of the church, and, in case they should go astray, to the discipline of the church.

Whereupon the confirmation takes place, with due solemnity, and with a suitable address.

Art. 70. To members removing to some other place, the following certificate shall on their application be given.

(L. S.)

We, the minister and elders of the reformed church at \_\_\_\_\_ hereby certify, that N.N is a member of the reformed christian church, sound in faith, blameless in walk, at least as far as is known to us. The rev. brethren and overseers of the congregation at \_\_\_\_\_ will therefore be pleased to receive our said \_\_\_\_\_ as such, under their spiritual care, and admit him to the communion of the holy sacrament.

Given in our church meeting, on the \_\_\_\_\_

In name and by authority of the rev. consistory, \_\_\_\_\_

A. B.

In cases where there exists a difficulty about giving the above attestation, a certificate of membership shall be given of the following tenor:

(L. S.)

I, the undersigned, minister of the Dutch reformed church at \_\_\_\_\_ hereby certify, that it appears from the registry of members of the said congregations, that \_\_\_\_\_ after making a profession of his faith, was admitted as member of the said congregation. \_\_\_\_\_ N. N.

Art. 71. There must be written upon the certificate that it shall be presented within six months in the congregation to which the person is going, and that, after a year and six weeks, it will be no longer of any value.

72. Each time after the first notice of the approaching celebration of the Lord's Supper, warning shall be given in public to those who have arrived from other places that they are to give in their certificates.

73. In case of long continued or unusual absence from the congregation, each minister must take care, that his duty be performed to the satisfaction of the consistory, and notice be given by the consistory to the president of the presbytery; but this shall have no reference to a minister who is ill and has obtained leave of absence on account of his illness, in which case the consistory shall provide for the proper discharge of the duty.

74. When any presbytery may have reason to suspect that a minister within their bounds is unable on account of insanity, decay of intellectual powers, or bodily weakness, to discharge his duty properly as a minister, a commission chosen from that body, and specially empowered for the purpose, must, at the place in question, both by hearing the consistory, and, if possible, by conversation with such minister, convince themselves of his condition.

1. In case he is really found to be of unsound mind, notice shall be given by that presbyterial commission to the synodal commission, who shall then endeavour in a friendly manner to induce him to try relaxation for the space of half a year, and should these endeavours be ineffectual, the synodal commission, after providing themselves with a certificate from a medical man, may suspend such minister in his office, his reputation and stipend being secured to him for the time just mentioned, and allow his duty to be performed by the other ministers of that presbytery.

2. When the half year is elapsed, the synodal commission shall again make inquiry whether he may be re-admitted to his ministerial charge, when, in case the commission should not find themselves at liberty to do so, the minister in question may be, in the same manner, again suspended for the period of one year, in the exercise of his profession, unless it should appear, after suitable inquiry, that the hope of recovery has been entirely cast off; all this does not diminish the right of higher appeal from the arrangement herein specified.

3. When this latter period has elapsed in case of the unhopd for continuance of the minister's insanity, or imbecility of mind, or constant bodily weakness, discharge from his office, *salvo honore et stipendio*, may be solicited for him by the synodal commission.

#### SIXTH DIVISION.—PARTICULAR RULES.

##### *First Chapter.—Church Officers.*

##### *Rules for the Church Clerks of the Reformed Church of this Colony.*

Art. 75. Church clerks are nominated by the majority of the consistory, on the presentation of the minister or ministers. They must be members of the reformed church.

76. The church clerks shall be bound, as often as there is preached or catechized in the church, to read and sing, as shall be prescribed by the minister.

77. In order to receive the necessary instructions for this purpose, they shall wait upon the minister at such time as he may think proper, or, if the minister wishes this should be done by the sexton, they must submit thereto.

78. They must be present in the church at the second ringing of the bell, and begin with reading as soon as there are any hearers.

79. In case of the absence or sickness of the minister, they shall read on Sundays a sermon and a form of prayer, according to the direction of the minister or elder.

80. The office of church clerk being viewed as united to that of visitor of the sick and catechist, they shall in vacant congregations, and even where there is a minister, by his order, be obliged to act in that capacity.

81. The church clerks make annually a copy of the registers of baptisms and members.

82. When they are prevented by sickness or other circumstances from discharging their duties in the public worship, and have no substitutes, they shall take care that another be appointed, with the approbation of the minister.

83. The fees of church clerks arising from marriages, and the granting of such certificates remain as is customary in the several congregations; with the exception, however, of such as are deemed by the minister, or in his absence, by the elder, to be indigent, in which case such fees shall not be charged.

84. Church clerks wishing to resign their office, must give at least three months' notice to the consistory.

85. The consistory has the right to suspend the church clerk, when he does not discharge his duty in a proper manner.

86. The consistory may add to these regulations according as the interests of the public worship, or those of the church clerk may require, subject to the regulations in the 44th Art. under church government in the congregation.

87. The church clerks are not permitted to leave the town or village without leave asked, and obtained from the minister, or, in vacant congregations, from the elders.

88. On entering upon his office, the church clerk binds himself, by subscribing these rules, to the faithful observance of the same.

*Rules for the Sextons of the Reformed Church of this Colony.*

Art. 89. The sextons are nominated by the majority of the consistory, on the presentation of the minister or ministers. They must be members of the reformed church.

90. The sextons shall be obliged weekly to clean the church,



chairs, pews, ornaments and all that relates thereto, or whatever is entrusted to them by the church wardens, and to have the church and vestry aired at least once a week; they must also have the path from the entrance to the church doors cleaned from time to time.

91. If it should please the churchwardens to examine the church property, of whatever description it may be, the sexton shall be obliged to open the stores or apartments in which the said property is kept, and to give all necessary assistance for that purpose.

92. The sextons shall not be permitted to lend out any church property, of whatever denomination, without the previous knowledge of the church master, or those who are entrusted with the care of the church buildings and property.

93. The sextons shall also take care that the palls and other woollen stuffs shall from time to time be aired and cleaned.

94. The sextons shall be at the service of the church wardens in all church matters; they shall be in waiting at every church meeting, and execute all their commands. When a meeting is appointed, they shall inform the members thereof; they shall also be at the service of every member of the consistory in matters concerning the consistory. Moreover, they shall as church messengers execute the commands given to them by office bearers of higher church courts.

95. The sextons shall be bound to keep registries of baptisms, confirmations, and, if practicable, of deaths, and also a registry of persons who pay seat rent to the church.

96. The sextons shall be obliged to notify in their registry of deaths where the deceased have been buried.

97. At the admission of members, they shall give certificates, "gratis," as to the time when such persons were baptized.

98. The sexton shall be obliged to deliver to the cashier deacon at such time as may be fixed by the consistory, a specific account of all church dues, income from vaults, palls, hearse, and all other revenues of the church, or pertaining to the synod fund, or that of the clergymen's widows' fund, with a list of all monies due and in arrear.

99. The sextons shall point out proper seats in the church to all strangers of any distinction, and also to persons who are to be united in marriage; they must also watch against all disorder during public worship, in particular attend to the young, and, after the service, make known the unruly to the church wardens, that they may be reprov'd.

100. The income of the sexton shall continue as it is at present fixed by the respective consistories.

101. The sexton shall be obliged to wait upon the minister on Saturday morning, or at such other time as the minister may think proper, to receive the necessary orders, and to execute them.

102. The sextons are *ex officio* undertakers, and conduct themselves according to the rules for the undertakers formed by each consistory.

103. The sextons shall not be permitted to leave the town or village without the previous knowledge of the minister, or in case of his absence and during vacancies of the president of the consistory.

104. The sextons shall be bell-ringers in the country parishes as long as the church wardens shall deem proper, and conduct themselves in this respect according to the general custom of the church, by ringing three times and in such manner as is customary or may be ordered.

105. Sextons wishing to resign their office, must give at least three months' notice beforehand to the consistory.

106. The sextons shall, at the end of every month, account for all church monies received by them.

107. The consistory has the right of adding to these rules in such a manner as the circumstances of time and place may require, subject to the regulations in the 45th Art. under church government in the congregation.

108. The consistory has the right of suspending the sexton in his office, or, if need be, of deposing him.

109. The sextons bind themselves, on entering on their office, by subscribing these rules, by the faithful observance of the same.

## SECOND CHAPTER

### *Rules regarding the Administration of Church Government and Discipline.*

#### *General Directions.*

Art. 110. Church government is administered by consistories, presbyteries, and the general church assembly.

111. These different courts, besides aiming principally at the maintenance of religion, especially of the reformed doctrine, and the purity of morals with which they are charged, do, moreover, take cognizance of actions and conduct which are contrary to the church laws and institutions.

112. Any one considering himself aggrieved by the decision of a church court, may appeal to the next *superior court*:—no further appeal can take place.

113. Church courts, carefully refraining from every thing that belongs to the civil government or judicial affairs, have especially to attend to the discharge of office and the conduct of all such whose doctrine and department, as such officers, exercise a more direct influence on the congregation.

114. As the administration of church government and discipline must consist in a religious and moral superintendence, church

courts must therein avoid, as much as possible, the tone and manner of the civil courts of justice; and the members thereof must consider themselves more as fatherly overseers than as judges.

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115. The church courts shall, on differences being brought before them, use all endeavours to settle them in a friendly manner, and to reconcile the contending parties, unless the interests of religion, or the welfare of the congregation, be likely to suffer thereby.

116. The church courts keep in view that their superintendence reaches not only over such misdemeanors as the civil power punishes, but also over all other sorts of scandalous behaviour; all that is opposed to the promises solemnly made at baptism, on being admitted as members, or on entering the marriage state; that every thing which may disturb good order in the church, delinquencies on the part of heads of congregations in the discharge of their offices, neglect in their important services, abuse of power and peculation are especially punishable; whilst, at the same time, an especial difference must be made between solitary errors, and constant immorality and habitual perverseness; and lastly, that in all cases particular attention must be paid to aggravating and extenuating circumstances, as well as to obstinacy in denying or resisting, or, on the other hand, to humility in confessing and submitting on the part of those who are to be reproved.

117. Each member of the congregation has a right to prefer complaints, and the members of church courts are officially bound to bring to the knowledge of their courts, such current reports coming to their ears, which, if found to be well grounded, must in the first place, be dealt with before their courts, without thereby losing the right of judgment thereon as members of the court. On such information, the court will judge whether there are reasons to examine such charge more closely, either for the punishment of the guilty, or for the preservation of the innocent person's honor.

118. Every one who wishes to bring a matter before the church court, will have the same as all church courts to proceed therein according to the church laws and these rules.

119. The church courts will be at liberty to determine, whether the cases brought before them shall be treated verbally or in writing.

120. No one practising in any court of justice shall be admitted in that capacity as agent before church courts, nor shall any documents be received which are signed by civil practitioners as such, but each one is required to sign for himself the papers which he delivers.

121. Commissioners to whom the investigation of any case is committed, shall, except in consistorial courts, draw up a written report, in which, besides a distinct statement and develop-



ment of the case, the evidence for and against must be brought forward in its full weight, without, however, at all expressing their opinion respecting the final determination of the case.

122. For procuring documents, or summoning persons, the church courts employ their ordinary officers, (namely the sextons,) or if it can be done with less expense and without injurious publicity, the officers of the church court of the place where any thing of the kind is to be done.

Such officers may be reprov'd (ecclesiastically,) suspended in their office, or removed from it on account of neglect and unfaithfulness in their duties; they are also responsible for all the expenses and injury occasioned by their neglect and unfaithfulness.

123. In the treatment of cases before church courts, every one must abstain from all injurious, odious and improper expressions, as also from every thing that may be considered contrary to the respect due to a church court.

124. In the church courts all cases relating to church government are determined by the members present, by a positive majority of votes, no decision being, however, made, unless at the least two thirds of the members of the court be present.

125. The decisions of the church courts must briefly contain the grounds on which they rest, and the articles of the church ordinances on which they are founded.

126. The church courts before which a case is brought, shall only in particular cases and for important reasons, allow a prolongation of the term fixed by the regulations.

127. Members of church courts may not sit to judge in cases in which either they themselves, or persons related to them in the two nearest degrees, by blood or marriage, are concerned, nor in cases in which they have already, as members of a lower court, given a decision.

In the above-named cases such members must absent themselves during the treatment of such case.

If the court is hereby diminished to less than two-thirds of its members, the case shall be postponed to a subsequent meeting.

In consistories the deficient numbers shall be called in by the court from among the last retired members of the congregation.

128. Church courts may cause the witnesses appearing before them to confirm their evidence by requiring an affirmative answer to the following question :

“Do you promise, as in the presence of the Holy God, that you will speak the truth unequivocally and uprightly, whether in the declarations which you make, or in the answers which you are about to give?”

129. If a witness, when summoned, does not appear, or is not inclined to give his evidence properly, he will (if a member of the church) lay himself open to church censure.

130. Every one that is summoned before a church court, must, unless lawfully hindered, present himself before it in person.

131. If any one is summoned before a church court on account of a charge against him, notice thereof shall be given him in writing, the day and hour fixed when he must appear, and, if, after being summoned twice to two different sessions, he does not appear, or assign a lawful reason for his absence, no defence shall be waited for, and judgment be given upon the charge laid against him according to circumstances.

132. The unavoidable expenses which the treatment of a case before a church court may have occasioned, shall, after the calculation of the same has been examined and approved by the court, fall on him, who, by the decision, has been declared guilty or in the wrong; unless there might be important reasons for causing the parties at issue to bear each his own expenses. Any one appearing as complainant in a church court, shall be obliged, when required, to give security to the satisfaction of the meeting, for the payment of the expenses, in case, by the final decision, he might be adjudged to pay the expenses.

133. Every church court, when required by the superior court, must transmit all the documents or copies of the same, which have served in a case which has been tried before them, and concerning which higher appeal has been made, adding, if they think proper, a further development of the grounds of their decision.

*Mode of Proceedings for the Consistory.*

Art. 134. The objects of church discipline for the consistories, are all members of the congregation, except ministers, candidates for the sacred office, missionaries, elders and deacons, and subordinate teachers.

135. The means of reproof which the consistory uses in the exercise of church discipline consist:

1. In a reproof adapted to circumstances by the minister in the name of the consistory, either in private or in presence of one or more of the elders.

2. In such a reproof from the full consistory.

3. In a denial of the use of the Lord's supper for a limited time.

4. In such a denial for an unlimited time.

5. In an entire excommunication with the use of the formula.

Except for serious public misdemeanors, the last three means of reproof are not employed, until one of the others has been used in vain, and they are followed by the suspension or deprivation of such privileges and benefits as are connected with being a member.

Art. 136. Upon satisfactory proofs of amendment, the consistory shall revoke the unlimited denial of the use of the Lord's supper.

137. When a charge is brought or information given against any one before the consistory, they shall, if they find reason for so doing, appoint a committee to make inquiry about it, and to communicate what they ascertain to the consistory.

138. If the consistory, after hearing the report of the committee, are of opinion, that they are to proceed further in the affair, they shall interrogate the accused, and if by his confession the charges appear well founded, admonish or reprove him, as the case may require.

139. If any one, even in case of serious public misconduct, as mentioned, in Art. 117, acknowledges the charges brought against him to be well founded, and promises amendment with a declaration of sorrow, the consistory shall make use of the first three modes of reproof, unless the nature of the scandal given should demand a more serious censure.

140. If any one, on being questioned about the things brought against him, should entirely or in any material point, deny the same, he may demand that those charges, with the grounds adduced for them, be delivered to him in writing within fourteen days.

141. After this notice, a period of fourteen days shall be allowed the accused to defend himself before the consistory, and to bring forward the evidence which he may deem necessary, as well as to give notice of the witnesses, which he thinks ought to be heard for his vindication.

142. In case, after this defence the guilt or innocence of the accused should be evident, the consistory shall immediately come to a decision.

143. The decision shall be put in writing, and entered in the minutes; it shall also be made known to the person accused, and if he desires it, a copy of it be delivered to him.

144. When the consistory, after the defence of the accused person, deems a further inquiry necessary, this shall take place as soon as possible, by obtaining evidence, and hearing witnesses, in presence of the complainant and the accused.

145. The consistory shall always hasten as much as possible the decision of cases.

146. When any one is found to bring a groundless complaint against a member on trifling suspicions, or out of party-feeling, he shall, according to circumstances, be seriously admonished and reproved.

### *Manner of Proceeding for the Presbytery.*

#### *I. In cases brought before it by appeal.*

Art. 147. Any one finding himself aggrieved by the decision of the consistory, may appeal to the presbytery to which that consistory belongs.



148. For that purpose he shall within fourteen days give written notice of his intention to the president of the consistory, by means of a document on which the date of delivery must be notified, together with a request for a copy of the decision if he has not already received it, and which must then be delivered to him within a week afterwards.

149. Within four weeks after this notice, or after receiving a copy of the decision, he must prosecute his appeal to the presbytery or be deprived of his right to do so.

150. He must, for that purpose, deliver in to the president of the presbytery, a paper containing the reasons of his grievance, and every thing that he thinks may tend to his advantage, with a copy of the decision annexed.

151. The president having received this document, shall through the scribe hand it over to the consistory, to be reported upon without unnecessary delay, and the consistory shall join to their report all the documents relating to the affair.

152. This report and the documents shall be laid by the president before the ensuing meeting of the presbytery, whilst the scribe shall make mention of it in the convocation made by him.

153. In case the president of the presbytery should desire further explanation on points of importance, he may demand it from the consistory or the person aggrieved, within a fixed period, or he may summon both parties before the court.

154. The presbytery having come to a decision, copies thereof shall be provided for the consistory and for those whom the case concerns.

## II. *In cases which belong immediately to the Presbyterian Government.*

### *A. As regards Discipline.*

Art. 155. When charges are brought before the president of the presbytery, or before the presbytery itself, against the doctrine, discharge of office, or the conduct of missionaries, members of consistory, and other church officers, he shall place the same in hands of the commission of the presbytery, to make enquiry on the subject.

156. When the commission by means of the documents handed over to them, or which they have obtained, in the best manner possible, have gained information about the charge brought forward, they shall hear the accused, take down his confession or defence in writing, and then deliver the same to the next ensuing meeting, together with all the documents relating to the affair, besides a proper report.

157. In case of confession the person accused shall, within three weeks after his examination before the commission, be entitled to deliver in to them in writing, such explanations, additions and alterations, as he may still consider necessary for

his justification or defence, and the commission, in their report, as well as the court in their decision, shall pay due attention thereto.

158. When the confession of the accused with what he may have further added thereto, after the report of the commission, is considered sufficient for the purpose of coming to a decision, the presbytery shall pronounce such decision on those grounds as the nature of the case according to church laws demands.

159. If a person being accused, or being summoned before the commission, does not appear, and gives for it no satisfactory reason (to be judged of by the commission,) he shall be regarded as a resister of the laws, and judgment be passed against him as such by the presbytery.

160. If the accused should deny the charge against him, either entirely or in any material point, the commission shall hear the witnesses in his presence, and at the same time give the accused opportunity to put such questions to the witnesses, through the president of the commission, as may be considered necessary in his defence, and also grant him liberty to state every thing that he may judge of service in the case, and to bring forward the witnesses he may wish to be heard in his defence.

161. Of all this an exact report shall be made to the next ensuing meeting of presbytery, which shall afterwards pronounce judgment, and give written notice to the parties concerned.

162. The presbytery is always authorised, if they consider it necessary, to summon before them the person accused, the complainant, and the witnesses.

163. Both the complainant and the person accused have a right to request of the presbytery, that either of the two may be further heard, *with limitations upon giving questions.*

164. The means of reproof of which the presbytery makes use are :

1. As regards missionaries.

a. Suspension in the office for a limited time.

b. Suspension for unlimited time.

c. Entire revocation of the deed of admission to the ministry, and administration of the sacrament.

2. As regards elders and deacons and other inferior church officers.

a. Suspension in their office.

b. Entire removal from it with forfeiture of the rights and privileges united with that office.

165. The consistory having received intelligence of the suspension or deposition, shall immediately provide that, in the meantime, the duty be performed by a properly qualified person.

On the suspension or deposition of an elder or deacon, one of the last retired elders or deacons, shall be called in by the con-

sistory, to complete the period of service of the person suspended or deposed.

166. Any one being thus suspended in his office, or removed from it on account of moral bad conduct, must moreover be regarded as deprived, as a member, of the use of the Lord's supper, but on satisfactory signs of repentance and amendment, this last named degradation shall be cancelled.

### *B. Ecclesiastical Disputes.*

Art. 167. Disputes that arise in consistorial courts, or between consistories and members of the congregation, are brought immediately before the presbytery, and judged by that court.

168. For that purpose application must be made in writing to the president of the presbytery, which president immediately causes the received charges to be forwarded by the scribe to those against whom the charges are to be brought, be reported upon within four weeks after receipt.

169. This report is forwarded to the complainant in order that he also may, within four weeks, state what he has to say in support of his case.

170. The second document of the complainants, with all the additions, passes again in the same manner to the defendant, in order that he may reply to it a second time within four weeks.

171. The presbytery in their next ensuing meeting may come to a decision, grounded upon the said documents; or they may place the same in the hands of a commission, in order previously to hear their report.

172. If, in the cases above mentioned, the required document is not delivered in within the limited time, the presbytery shall, without waiting for it, determine as they may see cause.

173. In the same manner as ecclesiastical disputes are determined in the preceding articles, shall be treated all disputes which belong immediately to the court of presbytery, and could not be decided amicably by their mediation.

### *Mode of procedure for the General Church Assembly (Synod) and Synodal Commission.*

#### *I. In cases which are brought before it by appeal.*

Art. 174. If any one appeals from the decision of a presbyterian court to the synod, he must give notice within four weeks to the president of the presbytery, and may at the same time demand a copy of the decision, if he should not have received one; and the scribe of the presbytery shall make the party opposed to the accused acquainted therewith.

175. He shall within four weeks after this, or after the receipt of the decision, deliver a writing to the scribe of the synod, containing the course of the affair, the reasons of his grievance, and a request that his appeal may be accepted, and no more, except the addition of a copy of the decision.



176. If the scribe of the synod should be of opinion that it does not admit of higher appeal, on account of the expiration of the fixed period, or because the matter has been already decided by higher appeal, he shall, nevertheless, not reject the application for that purpose, but leave it to be decided upon by the synodal commission, who, finding the case to be so, shall reject the application.

177. If the appeal be accepted, and no synod is held that year, the synodal commission shall act as is appointed Article 148—155 with respect to the presbytery.

178. The scribe of the presbytery shall in this case send in, as soon as possible, to the scribe of the synod, all the documents relating to the matter, or authenticated copies thereof.

179. The scribe of the general church assembly shall lay all these documents before the general assembly, and, in case no meeting of the assembly is held that year, before the synodal commission.

180. The parties concerned will be at liberty, on either side, to lay their case before the general church assembly, in a writing explanatory of the matter, which writing must be sent in to the scribe of the general church assembly, at least four weeks before the meeting of the assembly.

181. From the documents sent in, the assembly, after having heard on the subject the written report of the commission appointed for that purpose, shall determine whether they ought to confirm or alter the decision before come to.

182. Any church officer, being suspended in his office by the presbytery, and appealing to the synod, shall, pending the appeal, continue to perform the duties of his office, unless, in pronouncing judgment, the presbytery had, for important reasons, declared, that the suspension, notwithstanding appeal, should take effect; in which case, during the investigation, no change shall by any means be made in the suspension by the synodal commission.

## *II. In cases which belong immediately to the synod.*

Art. 183. The general assembly, or, if it does not meet that year, the synodal commission, shall have the immediate management of charges against the performance of duty, the doctrine, or the conduct of ministers or candidates, whether brought before them by information of one of the members, or by special indictment; furthermore, cases in which are concerned one or more presbyteries, their members, or the members of the general assembly as such. Among the ministers, "emeriti" are also included.

184. In case of a charge against the minister or a candidate, the synodal commission having received the charge, shall, through the scribe of the synod, forward it in writing to the accused, and

prescribe to him the time (not less than 6 weeks) within which he will have to reply thereto.

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185. In case of confession, the accused will be entitled to join to his plea such explanations, additions, and alterations, as he may deem necessary to his vindication or defence; and the commission must pay due attention to the same, whether they proceed to a decision, or wish to report the case to the next ensuing general assembly.

186. If the accused should deny the charge brought against him, either altogether or in any material point, the commission shall hear the witnesses, giving notice to the accused, at the least six weeks beforehand, of the place, day and hour, where and when that will occur, in order that he may be present and give timely notice of the witnesses which he may desire to be heard in his defence.

187. If, however, the offence to which the accusation relates, should be of a scandalous nature and one that makes a great rumour, the synodal commission, if they find at the commencement strong reasons for believing the complaint well founded, may suspend the accused provisionally in his office, giving notice thereof to the general church assembly.

188. Complaints against the doctrine of a minister or candidate must contain distinct evidence that he has contradicted or opposed the doctrine which, according to God's holy word, is contained in the received formulas of uniformity of the reformed church.

189. The modes of reproof, which the synod may use, are :

1. As regards candidates.

a. Suspension from the ministry.

b. Disqualification for a call to the ministry for a limited time.

c. Disqualification for an unlimited time.

d. Entire revocation of the admission to the ministry.

2. As regards ministers.

a. Suspension for a limited time without loss of stipend, further than the payment of the officiating ministers.

b. A similar suspension with entire or partial loss of stipend.

c. Suspension for an unlimited time, with or without loss of stipend.

d. Entire deposition.

Which last can take place only by the general assembly.

Art. 190. In case a minister is suspended in his office on account of charges brought forward or proved against him, the duties in congregation shall be performed at his expence, and the general assembly or synodical commission shall stipulate what portion of his salary he shall give up for that purpose.

191. An entire deposition from office is immediately followed with the loss of stipend and emoluments.

192. In case of the suspension of a minister, information shall

immediately be given to the consistory of that congregation, stating what measures have been taken for the due performance of the duties.

In case of suspension with loss of stipend or deposition, as determined in Art. 191 and 192, information shall immediately be given to government.

193. Whoever brings a case before the general assembly, must, at least six weeks before the opening of the synod, give notice to the person against whom he brings the charge, of his intention to complain, together with his reasons and grounds for so doing.

194. Both the complainant and defendant mutually support their case by means of an explanatory writing sent into the scriba of the synod, at the least four weeks before the opening of the general assembly.

195. The synod shall in their first meeting for each case brought before them, nominate a commission, to examine the documents received, and also, if necessary, to hear the witnesses and to make written reports thereon.

196. On the report of the commission the general assembly comes to a decision.

### THIRD CHAPTER.

#### *Rules regulating to vacancies and also to the calling and discharging of Ministers.*

##### *Of the occurrence and the filling up of vacancies.*

Art. 197. A vacancy in a congregation arises by the decease, removal, the becoming emeritus, the voluntary resignation, the discharge or deposition of a minister therein.

198. For every congregation a consulent is nominated, in order to officiate in case the congregation is entirely vacant, and in other cases to be mentioned hereafter.

199. The presbytery nominates the consulent for all congregations within its bounds, studying therein the interests and wants of the particular congregations.

200. The presbytery, in the appointing of consulents, may make such alterations as circumstances may require.

201. Notice shall be given to the consistories and the nominated consulent of such nominations, and of any alterations made by the presbytery with respect thereto.

202. In case of the decease of a minister, the consistory shall give immediate notice thereof to the consulent, and the latter together with the consistory to government.

203. Preaching and other pastoral duties are performed in vacant congregations by the consulent.

204. The consulent shall arrange with the consistory how often he shall repair to the vacant place for the purpose of preaching and performing pastoral duty.



205. In the consistory the consulent supplies in every respect the place of the incumbent (*pastor loci*);—no meeting of the consistory shall be held but in his presence, or with his consent.

206. The consulent for these his usual labours cannot, during the year of grace, demand any thing from the vacant congregation besides his travelling and lodging expenses, which are borne by that congregation; after the year of grace he shall receive for his service such remuneration, if any, not exceeding £37 10 0 per annum, as may please government to grant.

In case there is no widow or children, the said remuneration shall be enjoyed from the day on which he commenced the office of consulent in the congregation.

207. When a congregation becomes vacant, the church books and papers generally in charge of the minister, shall be taken over by the congregation of the consistory, and kept in a box or press with two different locks, of which one key shall be kept by the consulent, and the other by the elder who has been the longest in office, which keys, together with the press or box in which the church books and papers are kept, shall, with a proper inventory, be delivered to the minister appointed for that congregation, in the first meeting of the consistory after his instalment.

208. All the emoluments of a vacant parish, after the parsonage shall have been quitted by the widow or children, go to the benefit of the church fund of that congregation.

209. The presbytery, should it deem it necessary, takes care that service be performed for indisposed or suspended ministers.

210. In case of a minister becoming insane, the regulations are observed which are prescribed on that subject by Art. 75, fifth division.

#### *Of the filling up of Vacancies, and the calling of Ministers.*

Art. 211. Vacancies shall be filled up with all possible speed.

212. On giving notice to the government, (according to Art. 202,) the consistory, where government pays the salary, requests permission to call a minister.

213. The call shall take place six months at the utmost after the vacancy occurs.

214. On permission being received, the combined consistory proceed to the calling of the minister, by an absolute majority of votes, and from a number of three candidates first nominated by them, under the presidency of the consulent, except where there is still a remaining minister, the consulent, however, not having the right of voting. In calling such a meeting, Art. 36, No. 11, must be kept in view.

215. A minister or candidate being called, shall immediately acknowledge to the consistory of the congregation to which he is called the receipt of the letter conveying the call, and must, at

the utmost six weeks after the receipt, declare positively whether or not he accepts the call, he being otherwise considered to have declined it.

216. The consistory having received intelligence that the elected minister has declined the call, must, as soon as possible, and at the farthest six weeks afterwards, make a new call.

217. The presbytery, at their approbation of the call according to the rules of the church, shall take notice whether it has been conducted agreeably to the church laws and ordinances relating to the lawful manner of calling.

218. No one shall be called as minister in any congregation unless on the day of the call he has attained the age of at least two and twenty years.

219. The person elected having declared his willingness to accept the call, (or a minister being appointed without a call,) shall be announced to the congregation on three successive Sundays, in order to ascertain whether any one has a lawful charge to advance against him.

220. Charges against the person called must be delivered in writing to the consistory, and on being found by them of importance, shall, after the third announcement, be sent in to the synodal commission, which examines and decides upon the matter, and, in case the charges are considered well founded, gives information to government.

221. The announcement having taken place without opposition or the charges being judged unfounded, the call, with all the documents pertaining thereto, is presented by the consistory to the president of the presbytery, or to the scribe, if the præses himself should be the person called for approval; and being found correct, is ratified by the authority of the church, ecclesiastically approved, (*kerkelyk goedgekeurd*,) and submitted to government.

222. In case the præses or scribe of the presbytery should, on account of informality in the call, find a difficulty in granting ecclesiastical approval, they shall neglect no means of coming to a decision thereon as speedily as possible.

223. The congregation provides for the conveyance of the newly called minister with his family and goods.

If, however, he should remove within two years, reckoned from the day of his instalment to that of his departure, he may be called upon to refund these expenses.

#### *Of the Discharge and Instalment of Ministers.*

Art. 224. In case a minister removes to another congregation, the consulent is commissioned, in the name of the presbytery, to discharge such minister.

225. The discharge takes place in a meeting of consistory, and under the presidency of the consulent, who then, in the

name of the presbytery, takes upon himself the pastoral charge of the congregation.

226. To the minister, thus discharged, is given a certificate adapted to the case, according to the following formula :—

The consistory of the reformed church of \_\_\_\_\_ having seen and found correct all the necessary documents relating to the call of Ds. \_\_\_\_\_, minister in this place, to be pastor and teacher in the congregation of \_\_\_\_\_, hereby discharged him in an honourable manner from all connections with their meeting and congregation, and heartily wish, that, in his new connections, he may labour with the greatest benefit to the cause of christianity, and still experience the richest blessings of God, to his temporal and eternal happiness.

The consistory of the reformed congregation of \_\_\_\_\_

In the presence of me, deputy of the presbytery.

227. If a minister who has had a call, should die after his discharge, and before his instalment in another congregation, he shall be considered to have died as minister of the congregation which he was about to leave, in case his decease occurred during the month in which he was discharged ; but in the opposite case, he is considered to have died as minister of the congregation to which he was called.

228. In the same manner as Art. 227 directs in regard to a minister who is removing, shall be conducted the discharge of a minister pronounced emeritus, or otherwise honourably discharged, a certificate being at the same time delivered adapted to the case, according to this formula :—

The consistory of the reformed congregation of \_\_\_\_\_ having seen and found in order all the documents relating to the retiring as emeritus of Ds. \_\_\_\_\_, minister of this place, (or having understood the intention of Ds. \_\_\_\_\_ minister of this place to resign his office amongst us) hereby discharges him in an honourable manner from his office as pastor and teacher in this congregation, and earnestly wishes that his retirement from active service may be useful and satisfactory to him, and that he may always experience the richest blessings of God to his temporal and eternal happiness.

The consistory of the reformed congregation of \_\_\_\_\_

In presence of me, deputy of the presbytery.

229. In case of a minister being deposed, the requisite notice shall be given to the consistory and consulent of the congregation.

230. The instalment of one that is called must take place, at the utmost, three months after intelligence is received of his appointment.

231. If the person called should be prevented by circumstances from complying with the regulations in the preceding article, he must give notice thereof to the scribe of the general assembly,



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and through him to the government, in order to obtain a prolongation of the fixed period.

232. A minister who is called, must, previous to his being installed, deliver the certificate of his discharge to the consistory of his new congregation.

233. The instalment takes place in the name of the general assembly, by the consulent; the preaching of the installation sermon may be given up by the consulent to another minister.

234. The installation of candidates is effected by the imposition of hands; in that of ministers, this does not take place. To the former the ministers, members of the presbytery, are convened by the president of the presbytery.

235. The consulent gives immediate notice of the instalment to the presbytery, and, if the person installed was a candidate, that notice is immediately transmitted by the scribe of the presbytery to the actarius synodi, in which notice, besides the time of the installation, the names must also be expressly mentioned, both of the installer, and of those by whom the imposition of hands is accomplished.

236. The actarius synodi, in the name of the general assembly, grants to the candidate, when installed as minister, qualification in form, signed by him as such, for the discharge of all the functions of the sacred office according to this formula :—

#### *Certificate of Installation.*

“ The Revd. Mr. \_\_\_\_\_ having shown to the actarius synodi his certificate of admission to the ministry granted to him in the name of \_\_\_\_\_ dated \_\_\_\_\_ and he having on the \_\_\_\_\_ signed the laws of the reformed church of South Africa, it having further appeared that he, (in consequence of a call from the congregation at \_\_\_\_\_) has been appointed by government to be minister of the congregation at \_\_\_\_\_; and intelligence having been sent by the rev. scribe of the presbytery at \_\_\_\_\_ that the instalment, with imposition of hands, by the Rev. \_\_\_\_\_ took place on the \_\_\_\_\_ in the congregation at \_\_\_\_\_ therefore, by virtue of the determination of synod, in the rules on vacancies, Art. 240, this certificate of instalment is presented to the Rev. Mr. \_\_\_\_\_ by the undersigned, in the name and on behalf of the venerable synod of the reformed church of South Africa.

“ The synod trusts that the newly installed will discharge his gospel ministry in all its departments of preaching, catechising, ministration of baptism, and the Lord's supper, and whatever else pertains thereto, agreeably to God's holy word and the ordinances of the reformed church of South Africa; that he will do this as becomes a faithful pastor and teacher, who also edifies by conversation and deportment, so that, with the blessing of the Lord, the happy effects of the gospel may be advanced.

"The synod trusts that the congregation to which he has been given as pastor and teacher will shew him that respect and affection, and that confidence which he deserves for his work's sake, and in that hope they breathe out towards both the most fervent wishes and prayers.

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237. If the newly installed minister has come from some other place, the president of the presbytery immediately declares him member of the presbytery.

238. On the arrival, instalment, and entrance of ministers, all needless expenses shall be avoided on the part both of the congregation and of the minister.

#### *General Regulations.*

Art. 239. The presbyteries shall transact *with the utmost speed*, all business relating to vacancies and their filling up, together with the instalment and the discharge of ministers, so that if no questionable points present themselves therein, the president and scribe, in the name of the presbytery, may at once perform what is necessary in these cases.

240. The general assembly has the privilege of hereafter changing these and all other rules in such a manner as shall be found necessary.

#### FOURTH CHAPTER.

#### *Rules relating to the expenses of Church Courts.*

#### *General Regulations.*

Art. 241. Church courts (requiring to make investigation, or to decide upon differences or complaints in church matters,) find themselves charged with a part of that pastoral care, which is committed to them agreeably to the church rules, in accordance with the original ordinances of the Christian church.

242. For the fulfilling of the obligations connected with this charge, those courts ought not, therefore, to expect any recompense; but they have a lawful right to compensation for the expenses which they must necessarily incur on account of this part of their duty.

243. On this principle, church courts, and their delegated committees, avoid every thing whereby the discharge of their office would resemble the ordinary civil processes, more than the existing rules may absolutely require.

244. They ought also, as far as it can be done with the maintenance of good order, to avoid incurring expenses, especially such as would be occasioned by special or extraordinary meetings.

245. In estimating the expenses, and in examining the accounts of the same, the church courts ought to proceed on the principle prescribed on this subject; and, therefore, not to fix a higher sum, if, on a consideration of the circumstances, a less sum should be deemed sufficient to cover the expenses incurred.

*Particular Regulations.*

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Art. 246. The meetings of consistory, both ordinary and extraordinary, are attended by each member without remuneration.

247. An allowance (honorarium), proportioned to the amount of business, and the state of the church funds, is agreed upon by the consistory, and adjudged to the scribe of the consistorial meeting, provided he is not a member thereof.

248. The expenses for the higher church courts are ordinary or contingent.

a. The ordinary expenses are :—

1. The allowances to the scribe and quæstors.

2. Daily allowance to the members of the meeting.

3. Travelling expenses to the meeting of members living in the country.

4. Petty expenses of the meeting, as writing materials, postage of letters.

b. The contingent expenses are—the travelling and daily expenses of the synodal commission, and of special meetings, the making of translations, &c.

249. The accounts of the delegates of special meetings must be proportioned to those of the ordinary meetings. If the case should be otherwise, the meeting will be at liberty to make an estimate, and proportion them accordingly.

250. a. The allowances (honorarium) of the actuarius synodi, shall be £20 per annum; of the scribas and quæstors of the presbyteries, £10 per annum, and of the permanent scribe of the synod, £10 per annum.

b. The travelling expenses of the delegates are fixed at six-pence per mile going, and six-pence per mile returning, the distance being reckoned from the church to which the delegates belong.

c. The daily allowances to the delegates shall be for every day during the meeting, in the meetings of presbytery, *three shillings* per day, and in those of higher church courts, *six shillings*.

251. Delegates from that church where the meeting is held shall bring in no bills for travelling or daily expenses; elders in the country districts where the meeting of presbytery is held, have the right of demanding the daily allowance, unless they reside in the village.

252. Elders who accompany their ministers to any meeting must not bring in separate bills for travelling expenses, it being supposed that they come up together with the minister.

253. No delegates but such as attend the meetings to the very conclusion, shall lay claim to travelling expenses for their return, except in case of illness or urgent necessity, of which it rests with the meeting to judge.



254. For the copying of documents *four pence* may be reckoned for each page, in folio, containing not less than 25 lines, and each at least 12 syllables, except those documents or despatches which the scribes are obliged to make officially.

255. The messengers or officers of the various higher church courts receive for each day 3 shillings.

256. To witnesses who are summoned before church courts may be allowed, if they wish it, six-pence per mile for travelling expenses, going and returning, whilst their lodging expenses ought to be estimated on reasonable and economical principles.

257. To meet all the above named expenses, the following sums shall be levied in each congregation, and accounted for according to the regulations prescribed amongst the duties of the consistory, Art. 39.

*a.* For each seat in the church, nine-pence.

*b.* For each individual baptized at the usual time, nine-pence ; out of the usual time, 3 shillings.

*c.* On the admission of each member, two shillings.

*d.* On the interment of each corpse in the church yard of the reformed community, (where it is customary,) nine-pence. The poor and indigent are, however, exempted from these payments.

258. In the yearly report which the consistory delivers to the presbytery, shall be expressly noted the number of hired sittings in the church.

#### FIFTH CHAPTER.

#### *Rules for the Ministers' Widows' Fund.*

Art. 259. The general funds established for the support of widows and orphans of ministers residing within the bounds of the synod of the reformed church in South Africa—

260. Is raised :

*a.* From entrance monies.

*b.* From the annual contributions of the ministers.

*c.* From special fees on occasion of confirmations, marriages, &c.

*d.* From voluntary gifts which the congregation may assign to it.

*e.* From legacies and donations.

261. All officiating ministers of the reformed church, and who shall be admitted by the general assembly, are bound to contribute from their private purse to the funds of the ministers' widows.

262. They pay, at the farthest one year after their being installed in the congregation, a sum for entrance money, proportioned to their age ; so that

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Ministers above 22 and below 25 years, for entrance, £25	0	0
„ „ 25 „ 30 „ „	30	0 0
„ „ 30 „ 35 „ „	35	0 0
„ „ 35 „ 40 „ „	40	0 0
„ „ 40 „ 45 „ „	45	0 0
„ „ 45 „ 50 „ „	50	0 0
„ „ 50 „ „ „	60	0 0

263. Ministers are obliged besides to contribute a monthly sum of *five shillings*, to commence from the day on which they are installed in the congregation.

264. The special contributions of this fund consists in the following:

1. For performing a marriage ceremony out of the usual time, for each couple, *one pound seventeen shillings and six-pence sterling* (£1 17 6).

2. For the admission of members out of the usual time, *one pound seventeen shillings and six-pence sterling* (£1 17 6).

3. For the granting of extracts (except to paupers) from the marriage registers, *two shillings*.

Of all which, accounts shall be rendered to the quæstors of the presbyteries at the ordinary meetings of presbytery, and by them to the quæstor of the widows' fund.

265. The ministers of the reformed church bind themselves at their legitimation, to the strict observance of these regulations, as also that they shall regularly pay to the quæstors of the presbyteries their contributions, reckoning to the last day of the month of December of each year, which quæstors shall account for the same, besides the remaining moneys received by them for that fund, three weeks after the close of the meeting, to the quæstor of the widows' fund.

266. No minister, once having become a subscriber to the widows' fund, may withdraw from the stipulated contributions, even although he might be deprived by death of his consort, or have been declared emeritus.

267. Any minister who may neglect to pay his contributions at the fixed time, forfeits each time a fine of *one pound sterling*, besides the interest accrued thereon; but, in case of being guilty of such neglect three successive years, he forfeits his entrance money and all contributions up to that period; and is erased from the list of subscribers.

The synod, however, retains to itself the right and power, in case of the decease of a minister under these circumstances, to grant to his widow, the enjoyment and participation of the fund, provided she make application for that purpose, and pay up the arrears of her deceased husband.

268. The capital arising from entrance money, and whatever besides may be laid up as capital from increasing contributions, may not be touched.

269. To every widow shall be provisionally paid from this fund a sum of five hundred rixdollars per annum, unless, by an unexpected increase of the number of widows, the income of the fund should render a less allowance necessary, which shall be decided by the synod.

270. This sum of 500 rixdollars shall not be increased, but, for widows of such ministers as have contributed for six years to the fund, and that, in this proportional ascending ratio, that for every additional year of having contributed, the sum of 500 rixdollars shall be increased by rixdollars 50, and thus increase to rixdollars 1,000; this being the maximum above which it shall not rise.

Widows whose husbands have contributed more than six years, enjoy annually £41 15,—Rds. 550.

More than 7 years,	-	-	-	£45	0	Rds. 600.
— 8 —	-	-	-	48	15	— 650.
— 9 —	-	-	-	52	10	— 700.
— 10 —	-	-	-	56	5	— 750.
— 11 —	-	-	-	60	0	— 800.
— 12 —	-	-	-	63	15	— 850.
— 13 —	-	-	-	67	10	— 900.
— 14 —	-	-	-	71	5	— 950.
— 15 and upwards,	-	-	-	75	0	— 1000.

saving what is contained in Art. 292, unless by an unexpected increase, &c.

271. On the death of a minister's widow, the annual allowance enjoyed by her shall pass to the surviving child, or to all the surviving children arising from her marriage with the late husband, and that till the child or youngest of the children shall have reached the age of 16 years, or have previously come to some settled state; in like manner, when any minister who has contributed comes to die, after the previous decease of his wife, with this reserve, however, in so far as the state of the fund may permit it, without injuring the interests of the widow.

272. Six months after the death of the husband, (Art. 275,) the right of the widow to this fund commences.

273. No monies from this fund are paid to a widow without a proper receipt, accompanied by a certificate of her being alive, signed by the minister and elder of the congregation to which she belongs, or, in the absence of the minister, by two members of the consistory, or two other creditable persons of the congregation, without any expense, however, to the fund.

274. In case the widow of a subscriber might re-marry, her allowance ceases.

275. Every widow of a subscriber gives immediate notice to the managers of the fund of the day on which her husband died, with the addition of a certificate to that effect, signed by the minister or the members of the consistory of that congregation.



276. On the death of a subscriber's widow, the allowance is not paid farther than to the day of the widow's death, which day must be immediately notified, by the minister or consistory of that congregation to which she belongs, to the managers of the widows' fund.

277. The receipt and management of the fund remain entrusted to a special quæstor viduarum, with whom correspondence can be held on matters respecting the fund ; which quæstor shall be nominated from among the ministers of Cape Town, and who may communicate with the two other ministers in particular cases, respecting the said fund ; and a co-administrator to be appointed by the synod, or the synodal commission, under approbation of the synod.

278. The monies are put out in the most profitable, and at the same time, most secure manner, and the mortgage documents are preserved in an iron chest, in a church building, or placed in one of the banks, of which one key remains in possession of the quæstor, and one of the co-administrator.

279. The monies are put out in the name of "the minister's widows' fund of the reformed church in South Africa," and both the quæstor and co-administrator have the right of prosecuting the debtors according to law.

280. In case of the decease of the quæstor of the minister's widows' fund, the synodal commission shall demand from the heirs of the deceased quæstor of that fund, the books, papers, monies, &c., belonging thereunto, and nominate and appoint one of the Cape Town ministers as his successor, subject to the further approbation of the general church assembly.

281. No changes or additions may be made in these regulations, except in a lawfully convened synod, and that after such proposals of changes or additions have been three months previously made known to the ministers interested in the fund.

In voting on this subject, the elders shall be passed over, and no changes be adopted, unless with the consent of two-thirds of the ministers present.

#### *Regulations for the Quæstor of the Widows' Fund.*

Art. 282. *a.* The quæstor as well as the co-administrator receives all the contributions, and together give bonds exceeding by three times the amount of the funds.

*b.* The quæstor shall keep a regular account of all receipts and expenditure.

*c.* He gives and takes proper receipts for all that he receives or pays out.

*d.* The quæstor pays the widows every quarter.

*e.* The quæstor, in conjunction with the co-administrator, gives the synod an account of the state of the widows' fund.

*f.* The widows apply to the quæstor, who gives them a note

for the receipt of the monies due to them from the co-administrator.

*g.* The quæstor brings the necessary expenses in account against the fund.

*h.* No monies are put out but under the direction of the quæstor and co-administrator.

*i.* The quæstor and co-administrator have the right of appointing an assistant on their own responsibility, with an annual salary not exceeding £20.

*God save the Queen !*

Given at the Cape of Good Hope, this 8th Day of November 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,  
Acting Clerk to the Legislative Council.

No. 8, 1843.—Signed, George Napier.

*Ordinance for improving the Public Roads of the Colony.*<sup>(1)</sup>

*Preamble,—appointment of central board.*

WHEREAS the existing state and condition of the public roads of this colony are such as to render the transport both of persons and produce, over and along the same, alike difficult, dilatory, and expensive; and whereas the co-operation of the general government, and of the public at large, in the early creation, and judicious expenditure, of whatever funds may be required, in order to put the said roads into a permanently serviceable state, will be the course most immediately advantageous, as well as, ultimately, the cheapest; and whereas, by the regular and well directed application of as much convict labour as it may be practicable to afford, and of as much of the colonial revenue as can, from time to time, be granted, to the opening of rocky passes, the filling up of ravines, the formation of firm roads through heavy sands, the construction of bridges, and other objects of a like nature, the attainment of the important end in view will be much facilitated, and the contribution from the land owners of each respective division of the colony, essential towards putting the public roads in each division into thorough repair, be rendered too light to be justly felt as burthensome; and whereas, in order to provide an efficient system of adminis-

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<sup>(1)</sup> Confirmed and allowed by the Queen, *Vide* Government Notice, 7th August, 1844.—*Vide* Ordinance No. 12, 1844, *infra*.

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tration in regard to the custody and labour of the 'convicts to be placed upon the said public roads, and to the construction, repair, and general management of the said roads, it is expedient that certain boards of commissioners, one central and the rest divisional, should be constituted, and their respective powers and duties limited by law :—Be it therefore enacted by the governor of the Cape of Good Hope, by and with the consent of the legislative council thereof, that, from and after the promulgation of this ordinance, it shall and may be lawful for the governor of this colony to nominate and appoint certain fit and proper persons to form a central board of commissioners, to be styled "The Central Board of Commissioners of Public Roads."

*Constitution of central board.*

1. And be it enacted, that the said central board shall consist of six persons, three of whom shall be persons holding some office of profit under Her Majesty, and three of whom shall be persons not holding any office of profit under Her Majesty, which persons shall, from time to time, be appointed by proclamation, to be from time to time issued by the said governor, and such persons shall continue to be members of the said board until their respective appointments shall be revoked by some proclamation issued as aforesaid; and every person who shall be appointed a member of the said board shall, before proceeding to act as such, take and subscribe before the chief justice, or any judge of the supreme court, the following oath, that is to say,—“I, A. B. do swear, that I will faithfully execute the duties of a commissioner of the central board of commissioners of public roads, appointed by His Excellency the Governor, under and by virtue of the provisions of ordinance No. 8 of 1843, so help me God.” And the secretary to government shall cause every such oath so sworn and subscribed to be recorded in the colonial office.

*Governor to nominate chairman,—two members a quorum,—chairman to have casting vote.*

2. And be it enacted, that the said governor shall, by such proclamation as is in the last preceding section mentioned, nominate and appoint one of the members of the said board, to be the chairman thereof,—and the said board shall hold its meetings at such times, and at such place or places, as the members thereof shall find it convenient for the despatch of business to appoint, and any two or more of the members of the said board shall form a quorum, and shall, except in the case hereinafter in the 22d section stated, be competent to exercise the several powers and authorities hereinafter mentioned and granted to the said board; and at any meeting of the said board at which the chairman for the time being shall not be present, some member thereof present shall be chosen by a majority of votes of the members present to take the chair; and whenever



at any meeting of the said board, the votes of the members in regard to any question shall be equally divided, the chairman, besides his vote as a member, shall have a casting vote. And provided, that the said board shall be competent to frame all necessary rules and regulations for the due and proper despatch of business.

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*Duties of central board.*

3. And be it enacted, that it shall and may be lawful for the said board, and it shall be the duty of the same so far as the means, from time to time, at its disposal will permit, to improve, and, as much as may be, bring into a fit and proper state the main roads throughout the colony, and also from and out of such means as are by this, or shall be by some future ordinance provided, to maintain and permanently preserve the said main roads in such fit and proper state.

*Governor to proclaim what shall be main roads.*

4. And be it enacted, that it shall and may be lawful for the governor of this colony, to declare, by proclamation to be by him from time to time issued, what particular roads shall be deemed, and taken to be, main roads for the purposes of the said board and of this ordinance; and when, and as often as any sufficient reasons for so doing shall be presented to him, to change, by means of such a proclamation as aforesaid, to be issued for that purpose, the course of any now existing main road within this colony, and to substitute some shorter or more convenient course, and also, from time to time, to describe such new main roads as the public advantage may call for or require.

*Certain convicts to be employed on public roads.—central board to direct the labour, but not to interfere with the training of such convicts.*

5<sup>(1)</sup>. And whereas it is the intention of the said governor to commit to the said board the control and management of the labour of a certain number of convicts, sentenced to hard labour, in order that the said convicts may be employed upon the public roads: Be it enacted, that it shall and may be lawful for the said board to receive and retain the control and management of the labour of such convicts as may from time to time be specified in any order of the said governor, and to divide the said convicts into such number of working parties as it shall deem desirable, and, from time to time, to appoint such working parties to labour at such parts and portions of the public roads of this colony, whether main roads or branch roads, as the said board shall, for the time being, deem most advantageous. Provided always, and it is hereby declared, that the said board shall, from time to time, and at all times, yield obedience to all such rules, orders, and regulations, touching the management, conduct, and dis-

(1) See Ordinance No. 7, 1844, for the discipline and safe custody of the Convicts employed upon the public roads.

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cipline of the convicts under the charge of the said board, as the said governor may, from time to time, issue for its guidance. And provided also, that the said board shall have no power or authority to regulate or interfere with the treatment, training, or discipline of any of the said convicts, which shall at all times continue to be regulated immediately and exclusively by His Excellency the Governor.

*Central board to receive all sums voted by legislative council for road and convict purposes.*

6. And whereas it is intended to place in the hands or at the disposal of the said board, all such sums of money as shall hereafter, from time to time, be granted by the vote of the legislative council of this colony, for road and convict purposes,—in order that the same may be administered by the said board in such a manner as shall seem most beneficial for those united objects:—Be it enacted, that it shall and may be lawful for the said board, acting in pursuance of such directions as shall, from time to time, in that behalf, be given by the governor, to receive from and out of the colonial treasury, all such sums of money as shall annually be appropriated by the vote of the said legislative council for road and convict purposes, and the said board shall apply the same in the maintenance of the convicts appointed to labour at such place or places, as it shall from time to time direct, and in the construction, repair, and preservation of the public roads of the colony.

*Central board to appoint all necessary officers.*

7. ~~And be it enacted, that it shall be lawful for the said board, and it is hereby empowered, from time to time, to appoint such and so many surveyors, engineers, clerks, officers, collectors and other persons as it shall deem necessary to employ in the execution of this ordinance, and may, from time to time, remove such surveyors, engineers, clerks, officers, collectors and other persons, or any of them, and appoint others in their stead, and fix the respective duties and salaries of such surveyor, engineer, clerks, officers, collectors or other persons, and, if it shall think proper so to do, take such security from any surveyor, engineer, clerk, officer, collector or other person appointed by virtue of this ordinance, for the due and faithful execution of his office or employment, as the said board shall think fit; but no amount of salary shall be assigned to any person engaged for an indefinite period, or for any definite period longer than six months, until the same shall have been first approved of by His Excellency the Governor.~~

*Central board may use the Queen's lands and take materials therefrom.*

8. And be it enacted, that it shall and may be lawful for the said board to enter upon and to take possession of so much of any land belonging to the Queen's most excellent Majesty as shall be required for the purpose of any main road within this colony,

and for the making and erection of proper toll houses, toll bars, residences for convicts, or for workmen, or for any other purpose relating to the execution of this ordinance. And also to enter upon all lands of Her said Majesty lying convenient to any main road, or intended main road, and there to dig for, excavate, and carry away all such stones, clay, or other materials as may be required or be serviceable for the making and repairing of any main road.

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*Central board clothed with the rights of government in regard to lands being private property,*

9. And be it enacted, that, for the purpose of making any such main road, and of providing any such toll houses and residences as aforesaid, and, generally, for any of the objects of this ordinance, it shall be lawful for the said board, and it is hereby authorized, to take and use any land, and to dig out and carry away any materials belonging to, or being found in or upon the land of any person or persons whatsoever, and which land shall adjoin or lie convenient to the line of any main road, and that the said board shall be, and is hereby invested, for the purpose of so doing, with all and singular the legal rights, if any, belonging to the government of this colony, in respect of the taking of any such land, and the raising and carrying away such materials for making and repairing public roads, and whether such rights shall have been preserved to the said government by the proclamation of His Excellency Sir John Francis Cradock, bearing date the 6th day of August, 1813<sup>(1)</sup>, permitting the conversion of lands on loan into places on perpetual quitrent, or shall have been created by express stipulation or condition in any grant of freehold property, or shall exist in any other way or manner whatsoever.

*Central board empowered to treat for lands and materials, and all disputes as to value to be settled by arbitration.*

10. And be it enacted, that in case the said board shall require to take or use any land, or to dig out or carry away any materials situated as aforesaid, belonging to any person who shall not be bound by law to allow the said board so to do, without requiring any recompense or payment, by reason of the powers and authorities in the last preceding section delegated to, or bestowed upon, the said board, and which person shall think proper to require compensation from the said board, it shall be lawful for the said board, and it is hereby authorized, to treat and agree with every such person for the purchase or hire, as the case may be, of any such lands or materials as last aforesaid, and, generally, to enter into such contract or contracts relative to the obtaining of any such land or materials, upon such terms and conditions as it shall judge expedient. And if any such person and the said board shall not agree upon the purchase

(1) *Vide* vol. i. p. 147.



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money, or hire, or other recompense, to be respectively given by the one party and accepted by the other, then the said board shall cause to be served upon such person a written notice, offering as recompense or compensation whatever sum of money it shall deem sufficient, and requiring such person to state, in writing, to the said board, or to some person by it appointed, within a certain limited time, to be specified in the said notice, whether he is willing to accept the sum therein mentioned, or not. And in case such person shall refuse to accept the sum offered, or shall neglect to reply to said notice, then the said board shall, by another notice in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid to him by the said board, and for that purpose to transmit to the said board, within a certain reasonable time, to be specified in the said last-mentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration; and the said board, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said board, by the secretary of the said board for the time being, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and shall contain, amongst other things, a direction to the said arbitrators, to set off against and deduct from the amount of such recompense or compensation as would otherwise be claimable, the amount at which they shall estimate the benefit and advantage derived, or to be derived, by the person claiming recompense or compensation, by reason of the formation or improvement of the road in regard to which the question shall have arisen, together with a power to the said arbitrators, in case of a difference of opinion, to call in an umpire, whose decision shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the supreme court, and shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law, brought for or on account of the same subject-matter. And in case such person as aforesaid, claiming such recompense or compensation, shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then it shall be lawful for the said board, and it is hereby authorized, to lodge in some joint stock bank, in the colony, the sum of money offered by it as aforesaid, in its first notice in this section mentioned, for, or on account, and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank, as his absolute property; and the said board, upon so lodging the said sum, shall be authorized and entitled to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties

as the sum to be paid, or had been awarded by arbitrators or an umpire, under the provisions of this section, and as if all acts by law required for vesting in the said board a sufficient title to the use of, or property in, the land or materials aforesaid had been duly done and performed.

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*How to proceed where owner undiscoverable.*

11. And be it enacted, that in case the said board shall require to take or use any of the land, or to dig out or carry away any of the materials in the last preceding section mentioned, of which the owner or owners shall be absent from the colony, and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said board, and it is hereby authorized, to cause a notice to be inserted in the *Government Gazette*, for four successive weeks, describing as accurately as may be, the land which is required to be taken or used, or from and out of which materials are required to be dug out or carried away, and calling by name upon the owner or owners of the said land or materials, if known, or, if not known, then upon the owner or owners, whoever he or they may be, to take notice, that the said board is ready and willing to treat with the owner or owners, or any person duly authorized by him or them, for the recompense, or compensation, to be made or paid by the said board, for the said land or materials, and requiring such owner or owners to apply, within forty two days from the date of such notice, which shall be the day of its first publication, to the said board, stating the recompense or compensation claimed, and if the owner or owners shall so apply within the said period, then the like proceedings, in regard to the agreeing for, or otherwise determining, the recompense or compensation to be respectively given and received, shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner or owners had, from the first, been in actual occupation; and in case such owner or owners shall not apply to the said board, within the said period, then it shall and may be lawful for the said board to appoint some competent person to appraise the value of the land or materials required, (setting off against and deducting from the value of such land or materials, the amount at which the appraiser shall estimate any benefit or advantage derived, or to be derived, by the owner or owners of the said land or materials, by reason of the formation or improvement of the road in regard to which the question shall have arisen,) and such person shall make oath before some justice of the peace, (which oath every justice of the peace is hereby empowered to administer,) that he hath, to the best of his judgment, fairly appraised such value,—and, thereupon, it shall and may be lawful for the said board to pay whatever sum such person shall have valued

the land or materials in question at, into the guardian fund to the credit or credits of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the ordinance No. 105, bearing date the 5th of July, 1833<sup>(1)</sup>, in regard to monies placed in the said fund, belonging to persons absent from the colony, and the said board upon so paying the said sum, shall be authorized and entitled to take or use the land or materials in question, as freely as if the said sum had been agreed upon between the parties, as the sum to be paid, and as if all acts by law required for vesting in the said board a sufficient title to the use of, or property in, the land or materials aforesaid, had been duly done and performed.

*Central board may establish rates or tolls on main roads.*

12. And be it enacted, that it shall and may be lawful for the said board, and it is hereby empowered, as soon after the passing of this ordinance as may be deemed expedient, to erect, establish, and appoint at the most convenient place or places of and upon any main road, as many toll-bars or gates, as they shall esteem requisite, and to demand, levy, exact, and receive thereat, such reasonable tolls and rates as it may think proper, for and on account of the use of any such main road. Provided always, that no toll-bar or gate shall be erected, established, or appointed, and that no toll or rate shall be demanded, levied, exacted, or received, without the sanction of the governor for the time being previously obtained.

*Central board may change such rates or tolls.*

13. And be it enacted, that the said board may, and it is hereby authorized and empowered, with the consent of the governor for the time being, from time to time, and as often as they see it fit, to alter, change, and modify the existing rates or tolls, upon any such main road as aforesaid.

*Governor, by proclamation, to announce the establishment of any toll gate, and declare the tolls or rates to be levied thereat.*

14. And be it enacted, that the establishment of any toll-gate or bar upon any such main road as aforesaid shall be announced by proclamation, to be in that behalf issued by the said governor, which proclamation shall define the persons by whom tolls or rates shall be payable at any such gate or bar, and shall set forth in a schedule thereunto annexed, the particular tolls or rates to be payable at such gate or bar, by the several persons declared to be liable to pay tolls or rates thereat.

*Power of central board and of persons claiming under it in regard to levying tolls and rates.—Offenders liable to fine not less than £1 nor more than £10, and in default of payment to imprisonment.*

15. And be it enacted, that the said board, and all persons authorised by, or legally claiming under it, shall and may

(1) Vide vol. ii. p. 278.



prevent the passing through any toll-bar or toll gate, of any vehicle or animal on which any rate or toll shall be payable, until such rate or toll be paid; and if any person liable to any toll or rate from whom any toll or rate shall be duly demanded, or who shall, by any act of his own intended to prevent a due demand from being made, succeed in preventing such due demand from being made, and who shall, without paying the said toll or rate, and without the consent of the said board, or other person entitled to demand the same, or without some other lawful authority, proceed through or beyond the place where the same shall be of right demandable, shall incur a fine of not less than twenty shillings, and not more than ten pounds,—to be recovered by suit or action in any competent court,—and, in default of payment thereof, shall be liable to be imprisoned and kept at hard labour for any period not exceeding one month.

*Certain persons to be exempted from payment of tolls and rates.*

16. And be it enacted, that no toll or rate shall be demanded, levied, or exacted by the said board, or any other persons, at any gate or bar to be established after the promulgation of this Ordinance, for or on account of the use of any main road by any vehicle or animal employed in conveying, or in returning from conveying, any gravel, stone, or other materials for making or repairing the said road, or any buildings, matters, or things belonging thereto, or for any vehicle or animal used by any officer or soldier being in proper staff or regimental, or military uniform dress or undress, and on duty; and further, that no more than one full toll in any one day, to be computed from twelve of the clock at night to twelve of the clock of the next succeeding night, shall be demanded or taken for, or in respect of the same vehicle or animal, for passing and repassing through all or any of the gates or bars along the line of the said intended road.

*Central board may let to hire the tolls, by auction or tender.—Conditions of the lease.*

17. And be it enacted, that the said board may, from time to time, if it shall deem it to be expedient, let or farm the tolls, to be payable upon any main road, and vested in the said board, by tender or by public auction, to the highest and best bidder, for any time not exceeding one year in any case: provided always, that previously to every letting of such tolls or rates, the said board shall give, in some convenient manner, public notice of the time and place at which tenders will be received, or any such auction as aforesaid will take place; and that the person who shall at any such auction be declared to be the highest bidder, or whose tender shall be accepted, will be required to produce two sufficient sureties for the payment of the stipulated hire; and provided also, that in every letting of such

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tolls or rates, whether by tender or by auction, the said board shall require the farmer or renter thereof, to enter into a bond, with not less than two responsible sureties, each binding himself as principal debtor for the payment of the whole rent or hire of the said tolls, at the time and in the manner in that behalf to be in the said bond specified; and in case any instalment or payment of such rent or hire shall be in arrear and unpaid for the space of three days after the same shall have become due, then it shall be lawful for the said board to enter into, and take possession of, the said tolls or rates, and of all toll-houses or other buildings of which the renter or farmer in default would otherwise be entitled to the use, and to re-let the said tolls, or otherwise to place a collector or collectors in receipt thereof, and in possession of the said houses and buildings, as to them may seem fit; and the sum for which the said renter or farmer shall have been in default, together with all further instalments or payments stipulated to be made by the said farmer or renter, shall be due and demandable from him, in like manner and form as if he still remained in receipt of the said tolls or rates, credit being given to him by the said board for whatever sums they shall receive for, or on account of, the said tolls in respect of the term for which the said rates or tolls were let to the renter or farmer making default.

*Table of rates or tolls to be affixed at every gate in Dutch and English.*

18. And be it enacted, that the said board, or in case of any letting to hire, every renter or farmer of any tolls or rates, shall affix or cause to be affixed, in a conspicuous place, at each toll gate or toll-bar, whereat any rate for toll shall be payable, a table of the rates or tolls to be taken thereat, plainly and legibly painted or printed in the English and Dutch languages, under a penalty not exceeding five pounds, to be sued for by any person whatever in any competent court for his own use.

*All existing tolls on main roads to be received by central board from 31st December, 1843.*

19. And be it enacted, that all tolls and rates, and the rent of all tolls and rates, now belonging to and received by the colonial government in regard to any road which shall, by the governor for the time being, be hereafter declared to be a main road, shall, from and after the 31st of December, 1843, vest in and be received by the said board as fully and completely, and under the like and no other circumstances and conditions, as the said tolls, rates, or rents are now vested in and receivable by the said colonial government.

*Assessment of immoveable property necessary.—Mode of valuing such property.*

20. And whereas in addition to the annual grant to be anticipated, as aforesaid, from the legislative council, together with

the labour of the convicts hereinbefore mentioned, and the proceeds of the tolls and rates aforesaid, an assessment upon the immoveable property of the respective divisions of the colony, will still be required for the purpose of putting the main roads of each respective division into a good and serviceable state:—Be it enacted, that it shall and may be lawful for the said board, from time to time, and according as it may be deemed expedient, to nominate and appoint, or depute or delegate the nomination and appointment of, such number of competent valuers as they shall deem necessary for the purpose of valuing all and singular the immoveable property situate in the several divisions of the colony, respectively, excepting only such immoveable property as shall have been already valued for the purposes of any municipality within any of the said divisions, and the certain other immoveable property hereinafter specially exempted from assessment for the purposes of this ordinance; and the said board shall give or cause to be given, to the several and respective owners of immoveable property, which shall have been valued by such valuers as aforesaid, at or above the value of fifty pounds sterling, (or in case any owner of any such property shall not be in the occupation thereof, then to the occupier of the same,) a written notice, signed on behalf of the said board, by the secretary of the said board, stating the amount at which the property of each individual owner shall have been valued for assessment under this ordinance: and it shall be competent for any such owner, or for any occupier or other person representing any such owner, within thirty-one days after the service of such notice, to lodge with the said board, at some convenient place to be mentioned in the said notice, his objections, in writing, to the valuation made; and the said board shall thereupon fix and give due notice of a day and hour for inquiring into and determining the matter in dispute; and the said matter shall be enquired into and determined by the court of the resident magistrate of the division in which the property shall be situated, and after the determination thereof, or in case no objection shall have been lodged, the valuation as determined by the court of the resident magistrate, or as originally made by the valuers as aforesaid, shall be deemed and taken to be fixed and binding for the purposes of this ordinance.

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*Municipal valuations to be binding.—Cape Town and Green-point municipalities to be deemed within the Cape division.—Penalty on municipalities refusing use of their valuations.*

21. And be it enacted, that the valuation for the time being, of the immoveable property situated within any municipality which shall be within any division of the colony, shall be deemed and taken to be fixed and binding for the purpose of such assessment as aforesaid, and no other valuation shall be neces-



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sary. And for the purposes of this ordinance the municipalities of Cape Town and Green-point are hereby declared to be within the division of the Cape. And any municipality which shall wilfully refuse to permit and allow the said board to have access to, and to transcribe, and to produce, when required, in any competent court, any lists, books, documents, or records, necessary to ascertain and exhibit the full particulars of any valuation of immoveable property which shall have been made for the purpose of assessing any municipal rate in any municipality, shall, for every such refusal, forfeit to the said board, for the purpose of this ordinance, any sum not exceeding one hundred pounds, to be sued for by the said board in any competent court.

*Central board to impose a rate on all immoveable property valued at £50 and upwards.*

22. And be it enacted, that so soon as the valuation of the whole of the immoveable property in any division subject to assessment, shall have been completed in manner aforesaid, it shall be lawful for the said board, and it is hereby empowered, subject to the conditions in the next succeeding section stated, to assess and impose such a rate as it shall deem necessary and expedient, for effecting the objects of this ordinance, upon all such immoveable property in such division, whether situated within or beyond the limits of any municipality, as shall be valued at or above the value of fifty pounds sterling, (excepting always the certain immoveable property hereinafter specially exempted from assessment,) such rate to become due and payable upon some certain day to be fixed by the said board in that behalf, and the said board shall, by notice of not less than thirty-one days, announce in the *Government Gazette*, the day on which the said rate is so to become due and payable, together with the amount at which it shall have been assessed. Provided always that, at the meeting of the said board for the purpose of assessing or imposing any such rate as aforesaid, the presence of four members of the said board shall be required.

*Certain properties to be exempt from assessment.*

23. And be it enacted, that the certain immoveable property following, that is to say, all immoveable property belonging to her most gracious Majesty the Queen, and whether in her colonial government or otherwise, and all immoveable property vested in or belonging to any municipal board within this colony, and all buildings appropriated to the purposes of public worship, or gratuitous education, and all burial grounds shall be exempt from all liability to be rated or assessed by the said board for the purposes of this ordinance.

*Further rates to be imposed at not less than annual intervals.—No one rate to exceed 1d. in the pound on value of property.—Central board to levy no more than three rates in any division. Such rates need not be levied in consecutive years.*

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24. And be it enacted, that at or after the expiration of twelve months from the day on which any such last-mentioned rate shall have become due and payable in any division, but not sooner, it shall be lawful for the said board to assess and impose a second rate in such division, for effecting the objects of the ordinance, and so on, at or after the expiration of every succeeding twelve months, to be calculated from the day fixed for the payment of each preceding rate, it shall be lawful for the said board to assess and impose another rate, of each of which successive rates, a similar notice to that herein-before directed with respect to the first rate, shall be given by the said board in the *Government Gazette*; provided, however, that no one of the said rates shall exceed the amount of one penny in the pound, upon the value of the property liable to be rated as aforesaid; and provided also, that no greater number of such rates than three shall be assessed or imposed by the said board, in any one division, under or by virtue of the provisions of this ordinance. But the said rates need not be imposed, or levied, in consecutive years in any division.

*Mode of recovering rates.*

25. And be it enacted, that if the amount of any rate which, under or by virtue of the provisions of this ordinance, shall have been assessed or imposed by the said board upon any immoveable property within any division of this colony, shall not, on demand made by the person duly authorized by the said board to collect the same, be paid by the owner of such property or by the occupier thereof, it shall be lawful for the said board, and it is hereby empowered, to sue the owner or the occupier, either separately or both of them in one and the same action, each for the whole rate, in any competent court, and to recover the same by the judgment and process of such court: provided, however, that any occupier of the said property who shall not be the owner of the same, and who shall not have entered into such occupation in pursuance of a contract or agreement for becoming the owner of the same, shall, in the absence of any agreement to the contrary, be entitled to retain from such owner the amount of any such rate as aforesaid which such occupier shall have paid, but not the costs or expenses which any such occupier may have incurred or been condemned to pay in the course of any suit or action which may have been brought by the said board against such occupier, by reason of the non-payment of any such rate; and provided, also, that no person shall, as occupier of such immoveable property, be liable for any such rate which had become due and payable at any time before such person entered

upon the occupation of such property; and provided, further, that every person who, as occupier, shall at any time have become liable to pay such rate as aforesaid, shall continue to be liable, and may be sued as aforesaid, for the same, although such person may have ceased to occupy the property in respect of which such rate shall have been laid on.

*Proceeds of rates in any division to be applied to the main roads of that division.*

26. And be it enacted, that the entire proceeds of any such rate as aforesaid which shall be assessed and levied in any particular division of this colony, shall be applied wholly and exclusively to the construction and improvement of the main roads lying and being within that division, and not otherwise.

*Central board to vary its aid in the way of convict labour, and monies granted by legislative council in proportion to the amount raised by assessment.*

27. And be it enacted, that the said board shall, as much as may be, apply the convict labor, and the monies granted from time to time by the legislative council, in such a manner as that the greatest amount of each shall be expended upon the main roads of that division in which the greatest amount shall be levied by assessment, and so in proportion, diminishing the assistance to be rendered by the general government to the several divisions, in proportion to the diminution therein, respectively, of the main road rate.

*Manner of keeping, auditing, and publishing the accounts of central board.*

28. And be it enacted, that the said board shall, and it is hereby required to cause a true, exact, and particular account to be kept, and half-yearly made up and balanced,—that is to say, on the 30th day of June, and the 31st day of December in each year, of all the monies raised, collected, or in any manner received by the said board, or by any person on their behalf, by virtue of or for the purposes of this ordinance, and of the charges and expenses incurred by the said board, which account shall show the amount levied in each division in which there shall have been a rate imposed, and the whole amount expended in every such division, and a copy of such account, together with all necessary vouchers shall be transmitted by the said board to the governor of the colony for the time being, in order to the same being audited by the auditor-general, and afterwards laid by the said governor before the legislative council; and the said board shall also cause an abstract of the said account to be published without delay in the *Government Gazette*, for general information.



*Divisional boards to be elected.*

29. And whereas the branch roads of the colony stand much in need of reparation, and it is expedient to provide for the gradual improvement of the same;—Be it enacted, that the civil commissioner of each division, or officer for the time being acting as such, shall within one calendar month after the valuation of the immoveable property in that particular division shall have been by means of the central board effected, in manner and form as herein-before mentioned, call, upon a notice of not less than thirty-one days, to be published in the *Government Gazette*, a meeting of all the owners of immoveable property in such division, valued at fifty pounds or upwards, to be held at some convenient time and place to be named in such notice, for the purpose of electing four persons to form, with such civil commissioner, or officer for the time being acting as such, a board to be styled “the board of public roads for the division of \_\_\_\_\_.”

*Mode of electing divisional boards*

30. And be it enacted, that every such owner of immoveable property as in the last preceding section mentioned, shall be entitled to speak and vote at such meeting, and that every candidate for the office of member of the divisional board shall be the owner of some immoveable property within the division, and shall be proposed at the said meeting by some person duly qualified to vote thereat, and shall be seconded by some other person similarly qualified; and that the said four persons shall be elected by a majority of the votes, to be taken by ballot, of such owners of immoveable property as aforesaid, present at such meeting; and that, in case of an equality of votes appearing for any two or more candidates who cannot be all elected, the said candidates shall be forthwith ballotted for a second time, and he or they who shall obtain the greatest number of votes, shall be elected; and if, by reason of an equality of votes upon such second ballot, the same shall prove indecisive as to any two or more candidates, then the election of the one or more of the said candidates required to complete the due number shall be decided by lot.

*Civil commissioner to preside at meeting and transmit to secretary to government the names of the persons elected.*

31. And be it enacted, that the civil commissioner for the division, or officer for the time being acting as such, shall preside as the chairman of the meeting in the last preceding section mentioned, and shall declare at such meeting the names of the four persons who have been chosen, and shall, also, without delay, transmit the names of such four persons to the secretary to government, in order that they may be published in the *Government Gazette*.

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*Civil commissioner chairman, ex officio, of divisional board.*

32. And be it enacted, that the civil commissioner of each division, or officer for the time being acting as such, shall *ex officio* be the chairman of the divisional board of public roads for his own division, and shall, whenever the votes of the members of such board are equally divided, besides his vote as a member, have a casting vote. And whenever such civil commissioner shall be unable, or deem it unnecessary, to attend any particular meeting of such board, it shall and may be lawful for such civil commissioner to depute, by any writing under his hand, some other member of the said board, to be and act as the chairman of such meeting. And no meeting of any divisional board shall take place, nor shall any meeting of the members thereof be competent to transact any business whatever under or by virtue of the provisions of this ordinance, except the civil commissioner, or some other member by him deputed as aforesaid, shall be present and take the chair.

*Quorum of members of divisional board.*

33. And be it enacted, that two or more members of any divisional board shall form a quorum, except in regard to the assessment or imposition of any such rate for branch roads as is hereinafter authorized, for which purpose four members shall be present.

*Divisional boards to be triennially elected.*

34. And be it enacted, that the four members first elected in each division to form, with the civil commissioner, or officer for the time being acting as such, the divisional board for such division, shall (unless in the case of death, resignation, refusal to act, or becoming disqualified) remain in office for the next ensuing three years, at the expiration of which term of three years, the members first elected shall go out of office, and be succeeded by other four persons, to be chosen for an equal term of three years, and in like manner shall old members vacate office, and new members be elected triennially for ever. Provided always, that any outgoing member shall be re-eligible and may be re-elected, and, in such case, remain and continue to act in office, anything herein contained to the contrary notwithstanding.

*Day of electing divisional boards.*

35. And be it enacted, that on the Monday immediately preceding the day on which any such term of three years shall expire, a meeting shall be holden for the election of members for the three years next succeeding, and such meeting shall be called by a like notice and shall be composed of the like persons, and shall proceed to election in the same manner as is hereinbefore provided for the election of the first elective members of each divisional board.

*Persons disqualified to be members of divisional boards.*

36. And be it enacted, that any person at any time elected under the provisions of this ordinance, as member of any divisional board, who shall refuse to act, or who shall cease to be the owner of immoveable property situate within the division, or who shall become an insolvent, or who shall become incapable of fulfilling the duties of his office by mental or bodily infirmity, or who shall accept any office of emolument under the appointment of the divisional board of which he is a member, or who shall contract or undertake with such board for the performance of any work, or the supply of any materials, for or about the making or repairing of any branch road, or who shall, directly or indirectly, be interested or concerned in any such contract, shall, *ipso facto*, vacate his office.

*Mode of supplying casual vacancies.*

37. And whereas it is expedient to make provision for the supplying of such vacancies in the respective divisional boards as may casually occur in the intervals between any one general election and the general election next succeeding, by reason of any member becoming disqualified on account of any of the matters and things in the last preceding section mentioned, or by reason of any member for the time being dying, or resigning his office, or refusing to accept the office:—Be it enacted, that at every meeting assembled under the provisions of this ordinance, for the election of any divisional board, the persons present thereat, and qualified to vote at such election, shall, immediately after the names of the four persons elected shall have been declared by the chairman of the said meeting, proceed to choose two other persons qualified to become members of such board, and such two persons shall be elected by a majority of votes, to be taken by a ballot, to be conducted as hereinbefore in the 30th section of this ordinance prescribed; and the names of the said persons shall be declared by the chairman of the said meeting, and shall be transmitted for publication to the secretary to government, together with the names of the members of the board, under the description of persons elected to supply casual vacancies in the office of members; and the names of the said persons shall be ranked in the *Government Gazette* according to the number of votes which each shall have respectively obtained, and in case of an equality of votes existing between the two persons elected for the purpose aforesaid, then the names of the said persons, shall, in the said *Gazette*, be ranked by lot: and whenever any casual vacancy shall occur, in manner and form as in this or the last preceding section mentioned, the civil commissioner of the division for the time being, or the officer for the time being acting as such, shall, in case the person whose name shall then stand first upon the published list of persons



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elected to supply casual vacancies shall consent to act as member, and be capable of so acting forthwith, transmit to the secretary to government the name of such person, in order that such person may be announced in the said *Government Gazette* as the member of the board in question, in the room and stead of the person who has given occasion to the vacancy; and in case the person whose name as aforesaid shall stand first upon the list aforesaid, shall refuse to act, or be incapable of acting, then the other person upon the said list shall in like manner be resorted to. And any person whose name shall in the manner herein mentioned be published as member in the room and stead of any other person having been a member, shall become immediately, on such publication, to all intents and purposes a member duly elected, and shall serve until the next general election, unless he shall himself, during that time, die, resign, or become disqualified.

*If list of persons elected to supply casual vacancies shall fail, central board to nominate.*

38. And be it enacted, that in case by reason of there being more vacancies than two, or of refusal to act, or of incapacity of acting, the published list of persons elected to supply casual vacancies shall be exhausted without supplying the vacancies which shall arise in the interval between any one general election and the general election then next ensuing, the central board aforesaid shall nominate and appoint some fit and proper person or persons, and transmit his or their names to the secretary to government for publication in the *Government Gazette*.

*In case of vacancies remaining, members to have full powers to act.*

39. And be it enacted, that, until in some such manner as aforesaid, any vacancy or vacancies in any divisional board which may occur, shall have been supplied, the remaining members or member shall continue to do and perform all and every the acts, matters, and things necessary for carrying into effect the purposes of this ordinance; any thing herein contained relative to the number of members required to form a quorum to the contrary notwithstanding.

*Mode of proceeding when due and regular election shall not have taken place.*

40. And be it enacted, that in case it shall happen that by reason of any failure or neglect, or any other cause whatever, any meeting for the election of any divisional board, shall not be duly and regularly holden, or that at any such meeting the members for the purpose of choosing whom such meeting was convened, shall not be duly elected, then, and in every such case, the civil commissioner aforesaid for the time being, or officer at the time acting as such, shall as soon as he shall become aware of any such defect, call by a notice of not less

than ten, or more than twenty-one days, a meeting of the owners of such immoveable property as aforesaid, for the purpose of electing such members in manner and form as herein-before in that behalf provided; and the members who shall have been in office next before the time when such failure or neglect, or other cause of non-election shall have occurred, shall remain in office until their successors shall, in the manner hereinbefore provided, have been duly elected, upon which the former shall, provided their regular term of servitude shall have expired, go out of office, and be succeeded by the members so as aforesaid newly chosen.

Ordinance  
No. 8, 1811.

For improv-  
ing Public  
Roads.

*Civil commissioner to convene first meeting of each divisional board.—  
times of meeting of such board, how fixed.*

41. And be it enacted, that as soon as may be after the first and every other successive election of members of each divisional board respectively, the civil commissioner of the division for which such election has been held, or officer for the time being acting as such, shall issue summonses to the members elected, informing the said members, individually, that the first meeting of the board will be held at some convenient time and place to be named in such summons. And every such divisional board shall be competent to frame rules and regulations for the convenient despatch of business, and shall meet at such times and so often as at any previous meeting, or by any general rule or regulation of such board shall be directed, and it shall, moreover, be at all times competent for the civil commissioner for the time being, or officer for the time being acting as such, or for any two members of any such board, to summon, upon not less than eight days' notice, a meeting of such board, for any special purpose to be in such notice named.

*Divisional boards to superintend and improve the branch roads of the colony.*

42. And be it enacted, that the divisional board of each division respectively, shall from and out of such funds as are by this, or shall be by any future ordinance, provided, be charged with the superintendence, management, improvement, and continued preservation of the branch roads in such division. But no new branch road shall be commenced or undertaken by any such divisional board, until the central board shall be informed, and have approved of the proposed line thereof.

*Governor, by proclamation, to declare branch roads.*

43. And be it enacted, that it shall and may be lawful for the governor of this colony for the time being, to declare and describe, by a proclamation to be by him issued in that behalf, what particular roads shall be deemed and taken to be branch roads in each particular division.

*Central board may send convicts to branch roads, when they can be spared from main roads.*

44. And be it enacted, that it shall and may be lawful for the central board aforesaid, whenever the state and condition of the main roads under the administration of the said central board will permit the withdrawal from such main roads of any number of convicts, to allow such number of convicts as can be spared for the purpose, to be removed to and work upon such branch road or roads in any division, as the divisional board in any such division shall recommend, and the said central board shall approve.

*Certain powers and duties already conferred and imposed upon central board, conferred and imposed, mutatis mutandis, on the divisional boards respectively.*

45. And be it enacted, that the divisional boards of the colony respectively shall possess and enjoy, in regard to branch roads in any division, all and singular the various rights, powers, and authorities, in regard to the taking possession of lands and materials, whether of Her Majesty or of private persons, the erection of toll houses and toll gates, the taking of tolls, the renting and farming of the tolls demandable, the protection of the tolls by penalties, and the vesting in such divisional boards respectively of the rights of government in respect of any tolls now payable upon any road which shall hereafter be duly declared to be a branch road; and the said divisional boards shall be bound to the performance of every duty and condition imposed upon the central board aforesaid, which rights, powers, and authorities, and duties, and conditions, have been hereinbefore conferred and imposed upon the central board aforesaid in regard to main roads; and all such rights, powers, and authorities, duties, and conditions, shall, *mutatis mutandis*, be deemed to have been conferred and imposed upon each respective divisional board as fully as if all the provisions of the 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, and 18th sections of this Ordinance had been here set forth at length, and word for word repeated.

*Tolls on branch roads to be established in the same manner as tolls on main roads.*

46. And be it enacted, that all tolls to be hereafter imposed in any division upon any of the branch roads thereof, shall be established by proclamation, in like manner, and as is hereinbefore provided, in regard to the establishment of tolls upon roads.

*Assessment on immoveable property by divisional boards.*

47. And be it enacted, that it shall and may be lawful for each divisional board respectively, to assess the immoveable property of the division for which it has been created, in order to improve and bring into a fit and proper state the branch roads of that



division. And for the purpose of any such assessment, the valuation of the immoveable property in that division shall be received and acted upon; and the rates for branch roads shall be approved in the same manner, and shall be payable by the same owners, and may be imposed to the same amount, and shall be restricted to the same number, and be recoverable in the same manner, and shall be subject to every other incident, condition, and circumstance, belonging to the rates for main roads hereinbefore mentioned, and particularly described. Provided always, that no rate shall be levied by any divisional board in the same year in which a rate shall be levied in the same division by the central board, unless the majority of rate payers in such division shall otherwise require.

*Divisional boards to appoint all necessary officers.*

48. And be it enacted, that the divisional boards respectively shall have and possess the like powers and authorities, and no other, in regard to the employment of all persons necessary to carry into effect, so far as such divisional boards are concerned, the objects of this ordinance, which powers and authorities have been by the 7th section of this ordinance, conferred upon the central board.

*Monies vesting in each divisional board to be deposited with the civil commissioner.*

49. And be it enacted, that all monies to be administered by any divisional board, whether arising from tolls upon branch roads, from monies granted by the central board towards branch roads, from rates assessed for the improvement of branch roads, or from any other source whatever, shall, in the first instance, for safe custody, be handed over to the civil commissioner for safe custody. But all such monies shall vest in the divisional board for the time being, for the purposes of this ordinance.

*Central board and divisional boards may borrow money on security of tolls and assessments.*

50. And be it enacted, that it shall and may be lawful for the central board aforesaid, and for each divisional board, respectively, if it should be found necessary so to do, to raise by way of loan, on the credit of any tolls to be levied, or rates to be assessed, by the said central board or any divisional board respectively, any such sums of money as may, at any time, be required by such central or divisional board, respectively, for carrying into effect the objects of this ordinance. Provided always, that the said central board and each divisional board, respectively, shall, in every case in which it shall be proposed to raise any sum in manner aforesaid, call for tenders for the loan of the sum or sums required, and shall accept the tender which specifies the lowest rate of interest; and provided also, that every sum so borrowed, and whether by the central board, or by any divisional board, shall be paid off out of the proceeds

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of the tolls or rates respectively hypothecated, with all convenient speed.

*Disposal of surplus monies.*

51. And be it enacted, that it shall and may be lawful for the said central board, or for any divisional board, in case it should be deemed expedient so to do, when and as often as the funds received by, or which shall be at the disposal of, any such board shall be found to exceed the amount immediately required by any such board for carrying into effect the objects of this ordinance, to deposit the surplus in any joint stock bank or banks in the colony, or to lay out such surplus at interest upon good and sufficient security by first mortgage of immoveable property in this colony, and, from time to time, to change the securities, or any of them, and call in the monies so invested, as may be deemed advisable.

*Manner of keeping, auditing, and publishing the accounts of each divisional board.*

52. And be it enacted, that every divisional board shall, and every such board is hereby required to cause a true, exact, and particular account to be kept, and half yearly made up and balanced, that is to say, on the 30th day of June and the 31st day of December in each year, of all the monies raised, collected, or in any manner received, by such board, or by any person on its behalf, by virtue of, or for the purposes of this ordinance, and of the charges and expenses incurred by the said board, which account shall distinguish the sources from which all monies have been derived, and specify the amount received from each, and a copy of which account, together with all necessary vouchers, shall be transmitted by the divisional board to the central board, and the same, after having been audited through the said central board, shall, by the said board, be submitted to His Excellency the Governor, in order to the same being laid by him before the legislative council; and the said central board shall also cause an abstract of every account transmitted by any divisional board to be published, without delay, in the *Government Gazette* for general information.

*Central board and divisional boards may enter into contracts.—Form of contract when sum to be paid by board exceeds £ 10.*

53. And be it further enacted, that it shall and may be lawful for the said central board, and for each divisional board respectively, acting in pursuance of the provisions of this ordinance, from time to time to enter into any contract with any person or company whatsoever, for any work to be done and performed, or for any materials, articles, or things to be furnished to and for the purposes of this ordinance; and all contracts upon which the price or sum to be paid by any such board as aforesaid, shall exceed the sum of ten pounds sterling, shall be in writing,

and shall specify the work to be done, or materials, articles, or things to be supplied, and the price or sum to be paid for the same respectively; and in case of work to be done, the time within which the same shall be completed, and some penalty to be suffered in case of non-performance of the contract, and shall be signed, in the case of the central board, by not less than three members, and in case of any divisional board, by not less than two members, and also by the person or persons contracting, which contract, or a copy thereof, shall be entered in a book to be kept for that purpose.

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ing Public  
Roads.

*Central board and divisional boards how to sue and be sued.*

54. And be it enacted, that in any action or suit which shall or may be brought for the recovery of any penalty or sum of money due or payable by virtue of this ordinance, or for or in respect of any other matter or thing relating to this ordinance, by or against the said central board, it shall and may be lawful for the said board to sue or be sued by the style or description of "the central board of commissioners of public roads" and in any such action or suit by or against any divisional board, it shall be lawful for such board to sue or be sued by the style or description of "the board of commissioners of public roads for the division of———" and in all criminal proceedings the same style may be used. Provided always, that no member of any board shall be deemed or taken to be an incompetent witness in any such suit, action, or proceeding, by reason of his holding the said office; and provided also, that the said members shall always be reimbursed out of the monies to arise by virtue of this ordinance, all such costs, charges, and expenses as they shall be put to or become chargeable with, by reason of bringing or defending any action or suit, unless such action or suit shall arise from their own gross negligence or wilful default.

*Penalties on persons wilfully injuring property protected by this Ordinance.*

55. And be it enacted, that if any person or persons shall cut, break down, destroy, or wilfully injure, any main road, or branch road, or any toll-bar, toll-gate, or toll-house, building, or work of any kind whatever, erected or made under the authority of this ordinance, or being upon or belonging to any main or any branch road, within the colony, it shall be lawful for any person or persons, who shall see the offence committed, to apprehend, and also for any other person or persons to assist in apprehending, the offender or offenders, and by the authority of this ordinance, and without any warrant, to deliver him or them to any field-cornet, constable, or peace officer, who is to keep him or them in safe custody, and with all reasonable dispatch to convey him or them before the resident magistrate within whose district the offence shall have been committed, and if the party accused shall be convicted of any such offence by any such resident



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magistrate, he or they shall forfeit severally and respectively any sum not exceeding three pounds for every such offence, and shall also make full satisfaction for the damage which shall have been done thereby; and one moiety of such forfeiture shall be paid to the person or persons apprehending such offender or offenders, and the other moiety shall be paid to the central board, in case the offence have been committed in respect of any main road, or if the offence have been committed in respect of any branch road, then the said moiety shall be paid to the divisional board of such division, to be by the one or the other of the said boards, as the case may be, applied for the purposes of this ordinance; and in case any such offender shall not upon such conviction pay the said forfeiture and satisfaction, such magistrate is hereby required to commit him to prison, there to be kept to hard labour, if such magistrate shall so order, for any time not exceeding three calendar months, unless the said forfeiture and satisfaction shall be sooner paid: Provided always, that nothing herein contained shall prevent the said central or divisional board from bringing any action for damages before the supreme or circuit court having jurisdiction, should they consider the amount of such damages to exceed the jurisdiction of any resident magistrate.

*Injuries inflicted through carelessness how to be redressed.*

56. And be it enacted, that if any person shall, through carelessness, do damage or injury to any of the matters or things in the last preceding section mentioned, it shall be lawful for any resident magistrate, having jurisdiction, and he is hereby required, upon the application or complaint of the central or divisional board, as the case may be, within whose division such damage or injury shall have been done, to summon the party complained of, and upon hearing the parties on both sides, or on the non-appearance of the party complained of, to examine the matter of complaint, and to award such sum of money, by way of satisfaction to the party complaining for such damage, as to such resident magistrate shall appear reasonable; and in case of neglect or refusal forthwith to pay such money, together with all expenses attending the recovery thereof, it shall be lawful for such resident magistrate to sentence the party so neglecting or refusing, to any period of imprisonment not exceeding fourteen days: provided, however, that nothing herein contained shall prevent any such board from bringing any civil action for damages against any person doing such damage or injury as aforesaid, before the supreme court, or any circuit court having jurisdiction, should they consider the amount of such damages to exceed the jurisdiction of any resident magistrate.

*Certain properties vested in central board and divisional boards respectively.*

57. And be it enacted, that the right and property to, and in all and singular the roads, declared by proclamation to be

main roads of the colony, and to and in all gates, bars, sheds, houses, buildings, toll-houses, materials for road making, horses, oxen, implements, utensils and things whatsoever, which may be erected, provided or taken over by the central board aforesaid, or by its order, or for its use, and used by it in the performance of the trust by this ordinance reposed in the said central board, shall vest in the said board, which shall be authorized and entitled to administer and dispose of any of the said matters or things, in whatever mode shall seem most beneficial, and in like manner, *mutatis mutandis*, the branch roads of each respective division, and all such matters and things above described, as shall be erected, provided, or taken over, by the divisional board of each respective division, shall vest in the divisional board of such division, to be by such last mentioned board administered and disposed of as above set forth.

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ing Public  
Roads.

*No member of central board or of any divisional board to receive salary, or be a contractor.—Penalty for being interested in any such contract.*

58. And be it enacted, that no person elected or appointed under and by virtue of this ordinance, to be a member of the central board aforesaid, or of any divisional board, shall have or receive any salary or allowance, or shall exact, accept, or take any fee or reward whatsoever, on any account whatsoever, relative to carrying this ordinance into execution; nor shall any such person be eligible to become a contractor with the board of which he shall be a member for the doing of any work, or the supplying any materials, articles, or things contemplated by this ordinance; nor shall such person, directly or indirectly, be interested or concerned in any such contract as last aforesaid, under a penalty not exceeding one hundred pounds.

*Owners of immoveable property, competent witnesses.*

59. And be it enacted, that no owner of immoveable property rated under this ordinance, shall, by reason of any interest which he may be supposed to have as such owner, be deemed to be an incompetent witness in any action, suit, information, or legal proceeding, which may be brought or prosecuted relative to, or under the authority of this ordinance.

*This ordinance to take effect from promulgation.*

60. And be it enacted, that this Ordinance shall have effect, from and after the date of the promulgation thereof.

*God save the Queen!*

Given at the Cape of Good Hope, this 22d day of November, 1843.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,  
Acting Clerk to the Legislative Council.

Proclamation  
Nov. 23, 1843.

Members of  
Central  
Board of  
public roads.

*Proclamation by His Excellency Major-General  
Sir George Thomas Napier, K.C.B., &c. &c.*

WHEREAS by Ordinance No. 8, bearing date the 22nd day of this present month of November, and intituled an "ordinance for improving the public roads of the colony," it is enacted that it shall and may be lawful for the governor of this colony to nominate and appoint certain fit and proper persons to form a central board of commissioners, to be styled "the central board of commissioners of public roads."

And whereas, by the 1st section of the said ordinance, it is further enacted, that the said central board shall consist of six persons, three of whom shall be persons holding some office of profit under Her Majesty, and three of whom shall be persons not holding any office of profit under Her Majesty, and which persons shall, from time to time, be appointed by Proclamation, to be issued by the said governor.

And whereas by the 2nd section of the said ordinance, it is enacted that the said governor shall by Proclamation, and from time to time, as occasion may require, nominate and appoint one of the members of the said board to be chairman thereof.

Now, therefore, by virtue of the power and authority in me, by the said ordinance, vested, I do proclaim, and make known that I have nominated and appointed, and do hereby nominate and appoint the Hon. John Montagu, Esq., secretary to government; the Hon. Harry Rivers, Esq., treasurer general; and Charles Cornwallis Michell, Esq., surveyor general, all holding office of profit under Her Majesty; and the Hon. John Bardwell Ebdon, Esq.; Frederick Stephanus Watermeyer, Esq.; and Joseph Busk, Esq., to form, and to be, the said central board as aforesaid; and that I have further nominated and appointed, and do hereby nominate and appoint, the said John Montagu, Esq., to be chairman of the said Board.

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 23d day of November 1843.

(Signed) George Napier,

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

*Government Notice.*

Govt. Notice.  
Nov. 23, 1843.

Financial  
Regulations.

THE regulations contained in the government notice of the 24th July last<sup>(1)</sup>, to provide for the due collection and expenditure of the public revenue of the colony having been found, in some respects, insufficient, the following additional regulations having

(<sup>1</sup>) *Vide supra* p. 312



been approved by his excellency the governor, are published for the information and guidance of the officers of this government.

Govt Notice  
Nov. 23 1843.

Financial  
Regulations.

#### REVENUE.

1. In every case where the collectors of revenue shall fail to enforce the regular and punctual payment of collections or debts receivable by them, the amounts due by sub-collectors or other persons in default will be immediately surcharged against the accountant, unless he can show, satisfactorily, that the non-payment, in proper time, was occasioned by a cause he could neither control nor prevent; and in case the amount in default be not ascertainable from the cash account furnished, the auditor general will not pass the abstract for the accountant's salary until he shall have obtained a satisfactory statement of the amount due.

2. In case it shall be made to appear at any time that the public have sustained a loss by reason of a public officer being satisfied with security for a government debt evidently insufficient, by his neglecting or omitting to take proper and timely steps to recover the debt from the sureties when it could not be obtained from the debtor, or omitting, in the event of either of them becoming insolvent, to file the claims of the government so as to enable it to participate in the dividends from the estate, or by his neglecting or omitting to adopt every proper, as well as legal, measure to obtain the public money he is appointed to receive; in short, when it can be proved that the loss has arisen from the neglect, continued carelessness, want of proper precaution, or wilful fault of a public servant, he will be surcharged with the amount, and his conduct will be reported to the secretary of state.

3. All sums received by officers charged with the collection of public money, are to be accounted for *punctually* in due course, viz., *in the accounts of the month in which the money was received.*

4. The treasurer and auditor are in future to report immediately to the secretary to government, for the governor's information, whenever any sum is not duly received by the accountant, or accounted for by him.

5. Clerks of the peace who shall, when duly required, fail to take timely and proper legal steps to recover debts due to the government, will in every case be held personally responsible for, and will be surcharged with, the amounts due by the defaulters.

6. Public accountants are, in addition to their usual monthly cash account, to render also a monthly account of monies received by them which form no part of the ordinary receipts payable into the colonial treasury, which account is to be supported by declaration in writing, made before a magistrate or justice of the peace, in the following form,

Govt Notice,  
Nov 25, 1843.

Financial  
Regulations.

I do hereby solemnly and sincerely declare that the foregoing account contains a true and correct statement of all monies of every description received by me, on account of government, during the month of                      and not included in the cash account of my division (or department) for that month, and that I have not in my possession any public monies whatever which I have not duly accounted for, and I make this declaration conscientiously believing the same to be true.

And in case no such monies shall have been received, then the following declaration, made in like manner, is to be substituted.

I do hereby solemnly and sincerely declare that no public monies of any description whatever have been received by me during the month of                      save and except the sums brought up in the cash account of my division (or department) for that month, amounting to                      pounds                      shillings and                      pence sterling, and I make this declaration conscientiously believing the same to be true.

#### EXPENDITURE.

1. Accountants are required to make proper arrangements to ensure the presentation within a reasonable time of all demands payable through their officers, in order to prevent arrear claims being made at a long and inconvenient time after the expenses were incurred. Where the accountant has the power within himself, he must bring up the claims, however small, in proper time, viz, —in the quarter in which they may have been paid, or they will be disallowed.

2. Unless a satisfactory explanation can be afforded for delay, no final payment made by an accountant will in future be admitted which is not included in his accounts for the month in which such payment was actually made by him.

3. Fixed and unfixed contingent accounts, as already directed, are to be paid every two months in Cape Town, and quarterly in the country districts, and all such accounts for the two months or quarter are to be included in two abstracts only, namely, one of fixed and one of unfixed contingencies, which are to be sent immediately after the expiration of the second or third month as the case may be, and if the accounts are made out in more than one abstract of fixed and one of unfixed contingencies for the period, they will be returned to the accountant by the auditor general for the purpose of being embodied as directed. It is to be understood, however, that contingent expenses agreed to specially, to be paid in a specific time, either shorter or longer than the periods herein prescribed for the payment of contingencies, are exempted from the operation of this regulation.

4. If a person who has a claim against a public department does not present it to the head of that department in time, the

claim must lie over until the next two-monthly or quarterly abstract is paid. As a general rule, payment may be calculated upon in about fourteen days in Cape Town and the Western Districts, and three weeks in the Eastern Districts, after the expiration of the two months or quarter, and, if it be delayed beyond that period, the party claiming is requested to represent the circumstance to government. The object of this regulation is to prevent the delay which has occurred in payments to trades-people and others for supplies furnished, and by reason of which government has, there are grounds for believing, been obliged to pay higher prices than would have been the case could punctuality and certainty of payment have been relied upon.

5. All salary abstracts are to be sent in immediately after the expiration of each month, and the treasurer's drafts for the payment of salaries in the interior are to be forwarded, if possible, by the first, or at all events by the second post after the receipt of the abstracts. If any officers, or persons entitled, do not receive their salaries a few days after the second return post, they are to represent it to government in order that inquiry may be made. This arrangement is made with a view to prevent representations which have been made to the governor of delay in the payment of constables and others receiving small salaries.

6. When an accountant has a treasury draft, whether for salary or contingency, in his possession for which he has taken credit in his account, and the party to whom it is payable does not claim payment within three months from the date of the draft, he is to debit himself with the amount of the draft and return it to the treasurer as unclaimed, and if application be afterwards made to him by the party he is to instruct him to obtain a fresh authority from the government for the payment.

7. Advances to public accountants are to be discontinued, with the exception of advances for payment of the wages of workmen employed by the day, and for any urgent special service. In the latter case the accountant must show, to the satisfaction of the governor, the necessity for the advance.

8. Upon receipt of the treasurer general's drafts in payment of expenses on account of which previous advances have been made, the accountants are to debit themselves with such advances in the same account in which the final payment is brought up. This refers to advances which have to be accounted for only, and which are not to be repaid in money.

9. No partial repayments on account of advances which have to be repaid in money are in future to be retained by the accountant beyond the month in which they may be received, on the ground that they are so retained until the whole amount to be repaid shall have been received by him; nor is an accountant to defer calling in advances which have to be refunded in money under the plea that he has not received instructions from the



Govt. Notice.  
Nov. 23, 1843.

Financial  
Regulations.

government to that effect. On the contrary, he is in every case to proceed with vigor to recover such advances without waiting for official instructions (unless directed to abstain) and in the event of its appearing that he has not used due diligence to obtain the advance in proper time he will be immediately surcharged with the whole amount.

10. If advances of both kinds are not repaid or accounted for within a reasonable and sufficient time, the accountant will be surcharged with the amount thereof, and the auditor general will report to the government every advance not duly accounted for or repaid. Besides a special report in each case, the auditor general will report to government quarterly all advances which have been made during the quarter and which remain unpaid or unaccounted for.

11. As the accountant with the government is the responsible officer for the public monies or advances which pass through his hands, and not his clerk or any subordinate officer under him, it must be distinctly understood that the government will not relieve the accountant from any portion of his responsibility if he think proper to depute it to others, and any infraction of the regulations of the government respecting revenue or expenditure will be visited exclusively on the accountant, and not on those employed under his orders. The attention of public officers is especially directed to this regulation.

12. When explanations are required by the auditor general from public accountants upon any items of their accounts, the information called for is to be communicated direct to that officer; and any inattention to his queries or suggestions is to be immediately brought to the governor's notice by that officer.

Colonial Office, Cape of Good Hope, 23d November 1843.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

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### Government Notice.

Govt. Notice.  
Dec. 28, 1843.

Instruments  
requiring to  
be stamped.

His excellency the governor having ascertained that several instruments, among which are receipts for quitrent, which ought, by law, to be written upon stamped paper, are not so written, but are merely covered with blank stamps; notice is hereby given, that such covering blank stamps is contrary to law, and that the practice must be discontinued forthwith, in every case coming within the knowledge or under the control of any officer of this government.

In future, all receipts required to be stamped for monies payable to the government, are hereby ordered to be *written upon the stamped paper itself*, and not to be printed as heretofore.

His excellency has also further directed, that in all cases where, by law, the instrument is required to be written on stamped paper, the purport of the instrument and the date thereof shall be written *through* the stamp impression, and not below it, as is now, in most instances, customary.

Govt. Notice.  
Dec. 28, 1843.

Instruments  
requiring to  
be stamped.

Colonial Office, Cape of Good Hope, 28th December 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

### *Government Notice.*

His Excellency the Governor,—being desirous that all legal proceedings instituted by the Government, should be conducted with as little expense as possible to defendants; and also that every imputation or allegation of personal interest in such proceedings should be completely removed from the prosecuting officers,—hereby notifies that, in future, the clerks of the peace are not authorized to make any demands for costs or fees of any kind, when prosecuting for or on account of the Government, or when making any demand for payment before the commencement of legal proceedings, excepting for such stamps as are required by law, and for disbursements *actually* and *necessarily* incurred by them *on account of the Government* in the conduct of a case.

Govt. Notice.  
Dec. 28, 1843.

Fees to Clerks  
of the Peace.

Colonial Office, Cape of Good Hope, 28th December 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

### *Government Notice.*

WITH reference to the fourth article of the additional financial regulations contained in the Government Notice of the 23rd November last, His Excellency the Governor has been pleased to direct that all persons having claims against a public department for supplies furnished or work performed, &c., shall continue to present them to the head of that department as heretofore; but, in order to ensure greater punctuality in the payment of such claims, it is hereby notified, that, in future, payment for such supplies, &c. will be made direct from the Treasurer General, or Civil Commissioner, to the parties entitled to receive it, and not as heretofore through the head of the department for which supplies were furnished.

Govt. Notice:  
Dec 28, 1843.

Financial  
Regulations.

Colonial Office, Cape of Good Hope, 28th December 1843.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

K k 2

Govt. Notice,  
Jan. 8, 1844.

Redemption  
of Quitrents.

### *Government Notice.*

WITH reference to the notification of the 8th November last, a copy of which is annexed, in regard to the redemption of quitrents, His Excellency the Governor directs it to be made known that such applications will continue to be received at this office, up to the 31st day of March next, provided proof be at the time produced that all arrears of rent up to the end of last year on the quitrent places and lands which it is desired to redeem, have been paid into the hands of the respective civil commissioners, and on condition that one half of the redemption money be paid on or before the 30th April, and the remaining half on or before the 31st July next, and that in default of payment of the second instalment the first will become forfeited as before notified.

Colonial Office, Cape of Good Hope, 8th January 1844.

By His Excellency's Command,  
(Signed) John Montagu,  
Secretary to Government.

Govt. Notice,  
Jan. 11, 1844.

Copies Colol.  
Ordinances.

### *Government Notice.*

As in many instances the notice of the acting clerk of the legislative council, dated the 24th August last, inviting all officers entitled to receive copies of the colonial ordinances, to inform him of the numbers required to complete their respective files, has not been complied with; His Excellency the Governor has been pleased to direct the re-publication of the said notice; and he hereby calls upon the several officers to communicate the necessary particulars to the clerk of the council on or before the 31st March next, after which date no application for missing numbers will be attended to.

Colonial Office, Cape of Good Hope, 11th January 1844.

By His Excellency's Command,  
(Signed) John Montagu,  
Secretary to Government.

Govt Notice,  
Jan. 11, 1844.

Tenders.

### *Government Notice.*

NOTICE is hereby given, that in future all persons tendering for supplies called for, for the public service, will be considered as tendering to furnish separately, without reference to the whole supply, each as well as every article embraced in their tenders; and it will be optional with the government, without being obliged to accept the whole tender, to select such of the articles named in it as may be deemed desirable.

Colonial Office, Cape Town, 11th January 1844.

By Command of His Excellency the Governor,  
(Signed) John Montagu,  
Secretary to Government.



No. 1, 1844.— (Signed) Geo. Napier.

*Ordinance.—For creating a Police Superannuation Fund. (1)*

Ordinance  
No. 1, 1844

Police Snp.  
Fund.

*Preamble.—Certain provisions of ordinance No. 2, 1840, repealed.*

WHEREAS by the 26th section of ordinance No. 2, 1840, intituled “An Ordinance for improving the executive police of Cape Town and the district thereof; for defining the powers and duties of the said police in certain cases, and for promoting the peace and good order of the said town,”—it is provided that certain monies therein mentioned should form and constitute a perpetual fund to be termed the Police Fund, and to be applied, from time to time, to the objects in the said section mentioned: And whereas it is expedient that the said police fund should no longer exist, and that another fund, to be termed the “Police Superannuation Fund,” should be created upon principles more calculated to raise the character of the police force of Cape Town, and induce men of good conduct to enter into it; be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this ordinance, the said 26th section of the said ordinance, together with so much of the 25th section of the said ordinance as requires all fines, penalties, and forfeitures levied for or on account of offences specified in the said ordinance, to be paid over to the treasurer general of this colony, for the time being, and so much of the 27th section of the said ordinance as is inconsistent with the provisions of this ordinance, shall be repealed, and the same is hereby repealed accordingly.

*Superannuation fund created; trustees appointed.*

1. And be it enacted, that a fund, to be called the police superannuation fund, shall be created, and that the treasurer general of the colony for the time being, and the judge and superintendent of police of Cape Town for the time being, shall be the trustees for the administration of the said fund.

*Deductions and fines to be applied to fund.*

2. And be it enacted, that all such sums as shall arise from such a deduction from the pay of the inspector of police for the time being, and of every sub-inspector, serjeant of police, and police constable for the time being, as his excellency the governor shall direct, but not being a deduction at a higher rate than that of two pounds and ten shillings in the one hundred pounds in any one year;—and all sums to arise from stoppages from the pay of any of the persons aforesaid, on account of sickness, and all sums to arise from fines imposed upon any of the said persons, for misconduct in his capacity as a member of the police

(1) Confirmed and allowed by the Queen, *vide* Government Notice, 1st Oct. 1844, and see p. 104 supra.

force of Cape Town, and all sums to arise from fines imposed upon drunken persons and for assaults committed upon members of the said police force; and all sums to arise from the sale of worn or cast clothing supplied to the said force, shall be paid and handed over to the said trustees, to go and be applied to the use hereby created.

*Balance to police fund to be applied.*

3. And be it enacted, that the sum of £610 18 3½ being the amount of the police fund so discontinued as aforesaid, shall be paid and handed over by the treasurer-general to the said trustees, to go to and form a part of the said fund hereby created.

*Money to be lent out on mortgage bonds payable to trustees.*

4. And be it enacted, that the said trustees shall, from time to time, as they shall find opportunity and deem expedient, lend out on the mortgage of immoveable property in this colony, or otherwise, as they shall think proper, whatever monies belonging to the said police superannuation fund they may, from time to time, have at their disposal;—and all bonds which shall be taken for any such monies so lent out, shall be taken payable to the treasurer-general of the colony, and the judge and superintendent of police of Cape Town, both, for the time being, in their capacity as trustees of the police superannuation fund; and all interest to arise from the investment of the said fund, or so much thereof as shall not be needed for the purposes hereinafter mentioned, shall be again invested for accumulation.

*Annual accounts to be laid before governor.*

5. And be it enacted, that the said trustees shall yearly, upon the 31st of December in every year, frame and lay before his excellency the governor, for the time being, an account showing the amount and state of the said fund up to the said date.

*Governor to authorise payment of rewards.*

6. And be it enacted, that it shall and may be lawful for the said governor to authorize and direct the said trustees to pay, from time to time, from and out of the said fund, such sums of money, by way of reward, to such members of the police force of Cape Town, as shall, by extraordinary services, have merited the same.

*Superannuation.—Governor to authorise payment of allowance.—*  
*Scale of allowance. Claimant must be 50 years of age except in certain cases.*

7. And be it enacted, that it shall and may be lawful for the said governor to order that the inspector of police for the time being, or any sub-inspector, serjeant of police, or police constable, shall be superannuated, and thereupon to authorize and direct the said trustees to pay, from and out of the fund aforesaid, to the party superannuated, such certain yearly allowance as the said governor shall approve of and prescribe, but subject,

however, to the following limitations and conditions,—that is to say, that when and as often as the party superannuated shall have served with diligence and fidelity for any term not less than 15, and not more than 20 years, his yearly allowance may be made equal to, but shall not exceed, one half of his yearly pay while in active service, which yearly pay shall be taken to be the average of his yearly pay for the three years next preceding his superannuation; and that when and as often as the party superannuated shall have served, in manner aforesaid, for the term of 20 years or upwards, his yearly allowance may be made equal to, but shall not exceed two thirds of his yearly pay while in active service, which yearly pay shall be taken to be the average aforesaid: Provided always, that no inspector, sub-inspector, serjeant of police, or police constable, who shall be under the age of fifty years, shall be capable of receiving any such yearly allowance as aforesaid, unless it shall be certified in writing by the judge and superintendent of police for the time being, that such person, from infirmity of mind or body, is incapable of discharging the duties of his situation.

*Claim of parties disabled in discharge of duty.*

8. And be it enacted, that it shall and may be lawful for the said governor, in case the inspector of police for the time being, or any sub-inspector, serjeant of police, or police constable, shall be disabled for the performance of his duty by reason of any wound or injury received by him in the actual execution of his duty, to authorize and direct the said trustees to pay, from and out of the fund aforesaid, to the party so disabled, whatever his age or time of service, such yearly allowance not exceeding the average of his yearly pay for the three years next preceding the time of his receiving the said wound or injury, should he have served so long, and if not, such yearly allowance not exceeding the average of his yearly pay during his time of service, as the said governor shall approve of and prescribe.

*Allowance not to be claimed as of right.*

9. And be it enacted, that nothing in this ordinance contained shall be construed so as to entitle any inspector, sub-inspector, police serjeant, or police constables to claim, as matter of right, any part or portion of the said fund, or any allowance whatever from or out the said fund, or to prevent any such person from being unconditionally dismissed.

*God save the Queen!*

Given at the Cape of Good Hope, this 30th day of January, 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,  
Acting Clerk to the Legislative Council.



Ordinance  
No. 2, 1844.

for amend-  
ing Ordinance  
No. 9, 1836,  
for creating  
Municipal  
Boards,

No. 2, 1844.—(Signed) George Napier.

*Ordinance, for amending the Ordinance No. 9, 1836, intituled "An Ordinance for the creation of Municipal Boards in the Towns and villages of this Colony, on which the Local Regulations of each shall be founded."*

*Preamble.—Ordinance No. 9, 1836, repugnant provisions repealed.*

WHEREAS doubts are entertained in regard to the limits which, according to the provisions of the Ordinance No. 9, 1836, intituled "An ordinance for the creation of municipal boards in the towns and villages of this colony, on which the local regulations of each shall be founded," may lawfully be assigned to any municipality constituted and established under and by virtue of the said ordinance: And whereas it is expedient to remove the said doubts, and to amend the said ordinance in other respects: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that every matter or thing in the said ordinance contained, repugnant to or inconsistent with any of the provisions of this ordinance, shall be repealed, and the same is hereby repealed accordingly.

*Municipal limits to be at the discretion of committee.*

2. And be it enacted, that it shall and may be lawful for the committee in the said ordinance mentioned, in framing and drawing up the municipal regulations for framing and drawing which such committee has been elected and appointed, to fix the limits of the municipality at and by such convenient boundaries, whether beyond or within the extent, in any direction, of one mile from the certain central place in the 1st section of the said ordinance mentioned, as the said committee shall choose and determine.

*Limits already fixed, legalized.*

3. And be it enacted, that no limits fixed for any municipality in and by any municipal regulations, duly published before the promulgation of this ordinance, shall be deemed or taken to be illegal or invalid, by reason that the said limits go beyond or fall short, in any direction, of the extent of one mile from the certain central place in the 1st section of the said ordinance mentioned.

*Meetings of resident householders to be taken to be meetings of those within the limits ofresaid.*

4. And be it enacted, that the meeting of resident householders in the 8th Section of the said ordinance mentioned, to which the municipal regulations framed and drawn up by the committee, or any amendment of such regulations, made under and by virtue of the 10th section of the said ordinance, by the Governor of the colony for the time being, by and with the advice of the executive council, shall be submitted, shall be a meeting of householders resident within the limits fixed by the

said committee, and every other meeting of resident householders directed or contemplated by any succeeding section of the said ordinance, shall be convened and composed of the resident householders within the limits fixed for the municipality by the municipal regulations for the time being.

Ordinance  
No. 2, 1844.

For amend-  
ing Ordinance  
No. 9, 1836,  
for creating  
Municipal  
Boards.

*Meetings to alter regulations may be called at any time upon due notice.*

5. And be it enacted, that so much of the 11th section of the said ordinance as is comprised in the words following, that is to say, "that at any time within one month after the expiration of each and every year, from the publication of any such regulations as aforesaid," be repealed, and the same is hereby repealed accordingly.

*Resident householders—qualification, house annual value of £ 10.*

6. And be it enacted, that the paying of taxes to the amount of six shillings sterling per annum, or any other amount, shall, from and after the promulgation of this ordinance, cease to be a qualification of the resident householders in the 1st section of the said ordinance mentioned, and that in lieu and stead of such qualification the qualification in the 48th section of the said ordinance mentioned, shall be substituted, as if the same were in the said 1st section set forth and described.

*Commissioner—possession of immoveable property, value of £300.*

7. And be it enacted, that the being proprietor of a house within the municipality, and the paying annually a sum of not less than one pound sterling in taxes, shall, from and after the promulgation of this ordinance, cease to be a qualification to be elected a commissioner for the purposes of the said ordinance, and that henceforth any person being the proprietor of immoveable property, situated within such municipality, of the value of not less than £300, and no other, shall be qualified and eligible to be elected a commissioner for the purpose of the said ordinance.

*Past elections legalized.*

8. And be it enacted, that no commissioner heretofore elected in any municipality, for the purposes of the said ordinance, shall be deemed or taken to have been illegally or improperly elected by reason merely that he did not possess either the qualification in the 48th section of the said ordinance mentioned, or the qualification by the last preceding section of this ordinance substituted in its stead.

*God save the Queen!*

Given at the Cape of Good Hope, this 30th day of January 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig.  
Acting Clerk to the Legislative Council.

Ordinance  
No. 3, 1844.

No 3, 1844.—Signed, Geo. Napier.

Execution  
Creditors.

*Ordinance.—For amending the Law relating to the Rights of Execution Creditors.<sup>(1)</sup>*

*Preamble.—Repugnant laws repealed.*

WHEREAS by the law of this colony, all creditors whose writs of execution against the property of their debtor, are lodged with the sheriff or other proper officer for executing such writs, at any time before the proceeds realised in respect of the earliest, or other of such writs, shall have been paid over by the said sheriff or other officer to the party or parties entitled thereto, are entitled to rank *pari passu* upon such proceeds, and to claim that the same may be distributed amongst them *pro rata*, as if the same had been levied under all the said writs collectively and without any distinction. And whereas this rule of law above-mentioned is productive, in practice, of delay and inconvenience, and it is expedient to modify the same: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this ordinance, all other laws and customs heretofore in force within this colony, in so far as the same are repugnant to, or inconsistent with the provisions of this ordinance, shall be repealed, and the same are hereby repealed accordingly.

*Proceeds of levy under writ to be shared only where writ is lodged within ten days from lodgment of that under which levy is made.*

2. And be it enacted, that from and after the promulgation of this ordinance, no creditor lodging any writ of execution with the sheriff, or any other officer of the law proper for the execution of writs, shall be entitled to share in, or receive any part of the proceeds levied under any writ or writs of execution previously lodged, unless such creditor shall have lodged his said writ within ten days from the day on which was or were lodged the writ or writs under and in virtue of which the levy in the proceeds of which such creditor or creditors claim to share was made.

*God save the Queen !*

Given at the Cape of Good Hope, this 30th day of January 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,

Acting Clerk of the Legislative Council.

(<sup>1</sup>) Confirmed and allowed by the Queen, *vide* Government Advertisement 1st October 1844, and *vide* Ordinance No. 6, 1843, sect. 22.



No. 4, 1844—(Signed) Geo. Napier.

*Ordinance.—Relating to Merchant Vessels arriving in the Ports of this Colony.*

Ordinance  
No. 4, 1844.

Relating to  
Merchant  
Vessels.

*Ordinance No. 29, 1827, repealed.*

WHEREAS it is expedient to repeal an Ordinance passed on the 27th November 1827, entitled "Ordinance of His Honor the Lieutenant Governor in council, for making regulations for the conduct and proceedings of the masters and crews of merchant vessels arriving in the ports of this colony, (<sup>1</sup>) and to make other provisions in lieu thereof;—Be it therefore enacted, that from and after the passing of this Ordinance, the Ordinance aforesaid shall be and is hereby repealed, except so far as the said Ordinance repeals any former Ordinance or Ordinances, or any part thereof.

*All port dues abolished.*

2. And be it further enacted, and hereby declared, that all vessels, whether British or foreign, arriving in any of the ports of this colony, shall be wholly free and exempt from the payment of any port dues, anchorage dues, light-house dues, or any other description of port charge whatever.

*Penalties for communicating with the shore before pratique.*

3. And be it further enacted, that if the master of any vessel arriving at any port or place in this colony, or any person on board thereof, shall otherwise than by signal communicate or attempt to communicate with the shores, or with any other vessel, or with any boat from any vessel, or from the shore, or allow any person on board so to do before such ship so arriving as aforesaid shall have received pratique from the port captain, or health officer, or other person duly authorised by the port captain in manner hereinafter mentioned, then and in such case the master or other person so offending shall forfeit for every such offence the sum of £20; and if it shall be proved that any malignant disease of a contagious or infectious nature shall have been actually prevalent on board the said vessel when such communication or attempt at communication took place, then every master or other person so offending shall be liable to the penalty on £100, under the provisions of the quarantine laws, and shall be subject to the rules and regulations which are or shall be thereof provided in such cases.

*Penalty for boarding or going alongside before pratique.*

4. And be it further enacted, that if any person from the shore (excepting the officers authorised under this Ordinance,) or from

(<sup>1</sup>) See vol. 1, p. 359.—See also Ordinances No. 65, vol. 2, p. 73, and No. 1, 1834, vol. 2, p. 304. Confirmed and allowed by the Queen,—vide Government Notice 31st October 1844.

Ordinance  
No. 4, 1844.

Relating to  
Merchant  
Vessels.

any vessel in the ports or harbours of this colony, or from fishing or other boats, shall board or go alongside any vessel arriving in any of the said ports or harbours, or shall receive into any boat any parcel, or package, matter or thing whatever, from on board such vessel, previously to such vessel having received pratique in the mode hereinafter described, then and in such case every person so offending shall forfeit for every such offence the sum of £20, and in default of payment, shall be imprisoned for 6 months.

*The Penalties aforesaid not to affect vessels arriving coastwise.*

5. Provided always, and be it further enacted, that nothing hereinbefore contained shall extend or be deemed to extend to any vessel arriving coastwise from any other port or place of this colony, and not having had any intercourse, by means of boats, during the voyage with any other vessel than a vessel or vessels on a coasting voyage.

*When declaration of health signed by the master, pratique to be granted.*

6. And be it further enacted, that on the arrival of any vessel in the ports or harbours of this colony, the master of every such vessel shall, upon being furnished by the port captain, or health officer, or other person duly authorized, with a printed declaration of health, according to the form A. hereunto annexed, fill up and sign the same, if he shall feel himself justified from the perfect state of health of every person on board so to do, and return the said declaration so filled up and signed to the port captain, health officer, or other person duly authorized as aforesaid, whereupon such vessel may be granted pratique, and the master shall then hoist the union jack, or flag of the nation to which the vessel may belong, to the main-top-gallant-mast head as the health flag, in token of such pratique having been duly granted.

*Penalties on master for false declaration of health.*

7. And be it further enacted, that if the master of any vessel arriving as aforesaid, shall have signed the declaration of health as aforesaid, and it shall subsequently appear that any malignant disease of a contagious or infectious nature had shown itself on board of such vessel during the voyage to this colony, with the knowledge of such master, or if it shall appear that the statement made in the declaration, or in the answers to the questions therein inserted, in any way wilfully misrepresented the facts of the case, such master shall forfeit the sum of £50, and if it shall be proved that any malignant disease of a contagious or infectious nature did actually prevail on board the said vessel at the time that the declaration was signed, and with the knowledge of the master, then and in such case the master so offending shall forfeit the sum of £100.

*Ship's papers, &c. to be shown.*Ordinance  
No 4, 1814.Relating to  
Merchant  
Vessels.

8. And be it further enacted, that the master of any vessel so arriving as aforesaid in any of the ports or harbours of this colony, shall, upon demand, produce and show the ship's register and ship's papers to the port captain, or government resident, for his inspection; and shall deliver a list of his passengers, with a description of their rank, sex, and occupation, together with a list of any deaths or removals, that may have occurred during the voyage; and if it shall afterwards appear that the master has not duly accounted for every individual aforesaid, or shall have falsely accounted for any of them, or shall refuse to deliver the list when thereunto required as aforesaid, then and in every such case he shall forfeit for every such offence the sum of £50.

*Public mails to be delivered.*

9. And be it further enacted, that the master of every vessel arriving as aforesaid, shall deliver all public mails entrusted to him for delivery in this colony, to the port captain, or government resident, at the time of his vessel being boarded by such officer; and if he shall neglect or refuse so to do, he shall forfeit the sum of £20 for every mail, box, bag, or parcel unlawfully retained;—and he shall, at the same time, deliver any loose letters (excepting such as may have been entrusted to his peculiar care,) in his possession addressed to persons in this colony, in order that they may be transmitted to the post office; and in case he shall neglect or refuse so to do, he shall forfeit for every such letter so unlawfully retained a sum not exceeding £2.

*No vessel to shift her berth without permission.*

10. And be it further enacted, that it shall not be lawful for the master of any vessel which shall have come to anchor in the anchorage ground of any of the ports of this colony, to shift or change the berth of his vessel afterwards, without obtaining the previous sanction of the port captain, unless in case of emergency, and then he shall report his having done so as early as possible to the port captain.

*Bond with surety to be given by master, at Cape Town, Simon's Town, and Port Elizabeth.*

11. And be it further enacted, that the master of any vessel so arriving as aforesaid at either of the ports of Cape Town, Simon's Town, or Port Elizabeth, shall, within twenty-four hours after anchoring, unless prevented by sickness or stress of weather from coming on shore, give bond at the port office with one approved surety in the sum of £100, for the due fulfilment of the provisions of this Ordinance; and if he shall omit or refuse to give such bond as is hereby required, he shall forfeit the sum of £100.—Provided always, that if no suit be commenced in respect of the said bond within one calendar month after



Ordinance  
No. 4, 1844.

Relating to  
Merchant  
Vessels.

the departure of the master of the vessel who shall have entered into such security, then and in such case the bond shall be null and void so far as regards the surety mentioned therein, but shall remain in full force and effect as against the master.

*Like bond at other ports, if required.*

12. And be it further enacted, that the master of any vessel arriving at any other port, harbour, or place in this colony, than the ports above mentioned, shall, if required thereunto by the government resident, or other person duly authorized by him, give like bond at the office of the government resident in the like sum, and shall, in case of refusal, be subject to the like forfeiture as is provided in respect of the ports of Cape Town, Simon's Town, and Port Elizabeth respectively.

*On entering port, guns to be unshotted—no loaded arms to be discharged, either on board or on the beach.*

13. And be it further enacted, that the master of any vessel, upon entering any of the ports of this colony, shall cause all guns on board to be immediately unshotted, and shall not suffer them be reshotted until the vessel is clear of the anchorage, and if the master shall offend herein, he shall forfeit the sum of £5. And if a musket or other fire arm loaded with ball or shot, shall be discharged on any ship or boat in the anchorage, or on the beach, the person discharging such musket or other fire-arm shall forfeit the sum of £2, or, in default of payment, shall be imprisoned for any period not exceeding eight days.

*Regulations to be observed when landing gunpowder.*

14. And be it further enacted, that if the master of any vessel shall not whilst shipping or unshipping any gunpowder in any of the ports of this colony, suspend all other work on board his vessel during the removal of such gunpowder into or out of his vessel, he shall forfeit the sum of £50, and if the master shall not, before the magazine of the vessel containing any gunpowder be opened, extinguish any fire and light in the said vessel, he shall forfeit the sum of £50. (1)

*No ballast. &c. to be cast into the harbour below high water mark.*

15. And be it further enacted, that if any stones, gravel, or ballast, shall be cast into the water, below high water mark, within the bays, rivers, or harbours of this colony, from any vessel, or from any boat, hired or employed by or on behalf of the owner or master of such vessel, unless with the permission of the port captain, government resident, or other person duly authorized, as the case may be, then the master of any such vessel shall, for every such offence, forfeit the sum of £10.

*Deaths on board to be reported.*

16. And be it further enacted, that in the event of the death of any of the crew, passengers, or other persons occurring on

board of any vessel, whilst remaining in any of the ports of this colony, the master shall forthwith report the same, in writing, to the judge of police, if in the Port of Cape Town, or to the resident justice, if in the port of Simon's Town, or to the resident magistrate, if in the port of Port Elizabeth, or to the government resident, as the case may be; and if such master shall fail so to do, he shall forfeit the sum of £5 for every death, which shall not have been so reported.

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No. 4, 1844.

Relating to  
Merchant  
Vessels.

*Port captain to board vessels on arrival.*

17. And be it further enacted, that it shall be the duty of the respective port captains of the port of Cape Town, Simon's Town, and Port Elizabeth, upon the arrival of any vessel in the said ports, between sun-rise and sun-set, to board her immediately, and, if practicable, previously to her coming to anchor, in order that he may point out to the master of the vessel a proper berth, and in case he should be prevented from so boarding, in consequence of the quarantine regulations, that then he point out a proper berth for such vessel arriving under such circumstances.

*Master to be furnished with this Ordinance.*

18. And be it further enacted, that upon the port captain boarding such vessel as aforesaid, or going alongside of her, as the case may be, he shall deliver to the master a copy of this ordinance, and also, in case of any vessel arriving, on board of which any malignant disease of an infectious or contagious nature may prevail, he is then to furnish the master with a copy of such ordinance or ordinances as may from time to time be in force in this colony, containing the quarantine regulations.

*Her Majesty's ships and ships of foreign states to be boarded by port captains.*

19. And be it further enacted, that upon the arrival in any of the ports of this colony, of any of Her Majesty's ships, or of any vessel in the employment of Her Majesty, or of any national ship belonging to any foreign state, it shall be the duty of the port captain to go off and board her as speedily as practicable, and to offer to the commander of any such vessel every assistance or service in his power, and, if he shall be thereunto requested by the commander, he shall point out a proper berth for such vessel.

*Port captains to recover parted anchors and cables.*

20. And whereas it is of advantage to the trade and commerce of this colony, that the harbours and anchorage grounds thereof be kept as free as practicable from every obstruction by which vessels might sustain injury; and whereas it is expedient for this

(1) *Vide* Ordinance No. 7, 1834, Vol. 2, p. 328.

Ordinance  
No. 4, 1841.

Relating to  
Merchant  
Vessels.

purpose that the port captains of the port of Cape Town, Simon's Town, and Port Elizabeth, respectively, shall be empowered and enjoined to perform such service, and no other person whatever, excepting some person duly authorized by such port captain, or by the master of the vessel, in the case hereinafter provided: Be it therefore further enacted, that the port captain of the said ports, respectively, shall be employed, and is hereby required, to use his utmost endeavours to recover as speedily as possible all anchors and cables which may have been parted with by vessels riding at anchor at any of the said ports, and to retain possession of the same until the party claiming such article or articles shall have paid to him, or given security to his satisfaction, for the immediate payment of the amount of salvage due for the recovery thereof, in conformity with the rates fixed in the schedule hereunto annexed, marked B, or such other scale as may hereafter be approved of by the governor.

*But the master to have three days for recovering the same himself.*

21. Provided always, that it shall be lawful for the master of any vessel which has parted from an anchor or cable, to recover the same by his own boats, or by any other means,—and such master shall be allowed three days for the recovery of the same, before the expiration of which period the port captain shall not proceed to recover any such anchor or cable as aforesaid, unless requested so to do by the master, or his agent.

*If salvage not paid, port captain to publish notice as within.*

22. And be it further enacted, that if the salvage due in respect of such anchors or cables, be not paid to the port captain, by or on behalf of the party claiming or owning the same, within seven days after the recovery thereof, the port captain shall cause a notice to be published in the *Government Gazette*, notifying the recovery of such article or articles, and stating that if the salvage due on account thereof be not paid within seven days from the date of the publication thereof, the same shall be publicly sold.

*If salvage not paid within time specified in notice, article to be sold*

23. And be it further enacted, that if the salvage, together with any necessary expenses incurred, shall not be paid within the time prescribed in such notice, it shall be lawful for the port captain to publish a notice of sale in the *Government Gazette*, (not being less than seven days,) and to cause such anchor or cable, or other articles, to be sold by public auction to the best bidder, and the produce thereof shall be applied—first, to the payment of customs duties, if liable thereto; next, of salvage, charges of sale and other necessary expenses; and the surplus, if any, shall be paid into the colonial treasury, for the use of



the proprietors of the articles, or their agents duly authorized, provided such proceeds be claimed within *one* year after such date.

Ordinance  
No. 4, 1844.

Relating to  
Merchant  
Vessels.

*When proceeds of sale inadequate to cover salvage, government may supply the deficiency.*

24. And be it further enacted, that if the produce of the sale so held as aforesaid shall not be sufficient, after payment of the necessary charges, to defray the salvage due in respect thereof, then it shall be lawful for the governor to pay out of the colonial treasury to the port captain the amount of salvage due, or such portion thereof, as such proceeds as aforesaid shall not be adequate to cover. And also, in such cases where search has been made by the port captain for anchors or cables, or other articles or things whatsoever, which might obstruct the anchorage ground, it shall be lawful for the governor, to pay out of the colonial treasury such remuneration for such service as to him shall seem reasonable.

*To whom the ships' reports to be sent.*

25. And be it further enacted, that the port captains respectively, shall immediately after having returned on shore after having boarded or communicated with any vessel arriving in the ports of this colony, make out and transmit a report of such arrival to the persons hereinafter mentioned, that is to say,—

In respect of arrivals in the port of Cape Town, such returns to be transmitted to the Governor,—the Secretary to Government,—the Senior Officer of Her Majesty's Ships and Vessels in Simon's Bay,—and the Collector of Her Majesty's Customs.

In respect of arrivals in the port of Simon's Town, such returns to be transmitted to the Governor,—the Secretary to Government, the Senior Officer of Her Majesty's Ships and Vessels in Simon's Bay,—and the Sub-collector of Her Majesty's Customs.

And in respect of arrivals at Port Elizabeth, such returns to be transmitted to the Governor,—the Lieutenant Governor,—the Secretary to Government,—and the Sub-collector of Her Majesty's Customs.

*Port captains not to sell anchors or cables, or supply ships with anything for profit, except in cases of distress.*

26. And be it further enacted, that, subject to the exception hereinafter mentioned in respect of the present port captain of the port of Cape Town, it shall not be lawful, from and after the passing of this ordinance, for the port captain of any of the ports of this colony, or for any of the crew of his boat, or for any person whatsoever belonging to his department, to supply, by way of sale or for profit, any anchor or cable, or to keep any boat or launch for the purpose of sending off anchors or

Ordinance  
No. 4, 1814.

Relating to  
Merchant  
Vessels.

cables to vessels, or to employ the boats or crews provided by the Government for that purpose, or, to own or use any private boat or launch for the purpose of conveying water or ballast to ships, or for any purpose of trade, profit, or emolument whatever, excepting for the recovery of anchors or cables which may have been parted with, or for the removal of any article or thing whatever which may be deemed necessary, for the sole purpose of keeping the anchorage ground clear and free from obstructions as hereinbefore mentioned: Provided always, that nothing herein contained shall be construed to extend to preclude or prevent any port captain from procuring, taking, or sending off in the government or any other boat, any anchor or cable to any vessel in distress, or of rendering any other assistance in such cases, or from being duly and properly remunerated for the same according to law.

*Nothing in sec. 26 to extend to the present port captain of the port of Cape Town.*

27. And whereas the individual at present holding the office of port captain of the port of Cape Town, since his appointment to the said office in the year of our Lord 1826, has, with the sanction of the government, been in the habit of providing and supplying anchors and cables to vessels, for his private emolument, and, also, has kept a launch for such purpose, and has incurred certain expenses in providing and keeping on hand a stock or supply of such articles as well as in providing and keeping in repair the launch mentioned, and has likewise derived certain emoluments by the recovery of anchors and cables parted with. And whereas it is just and reasonable that the pecuniary interests of the present port captain of the said port of Cape Town, in respect of the authorised profits so had and enjoyed by him for a number of years should be duly protected: Be it, therefore, further enacted, that so long as the present port captain of the said port of Cape Town shall continue to hold such office, nothing herein contained shall be construed, or deemed to have the effect of preventing him from exercising and enjoying, as he has hitherto done, the right, in common with every other person, of supplying anchors or cables to vessels, or of recovering anchors or cables parted with in the manner hereinbefore provided, or of employing his launch or other boat or boats in such services, but that he shall be permitted to continue to exercise such rights and to enjoy such emoluments as if this ordinance had not been passed.

*No person in any port office department to recommend agents, &c. to any ship.*

28. And be it further enacted, that it shall not be lawful for any port captain, or for any of the crew under his authority, or for any other person belonging to his department, to take off in

the government boat any merchant, agent, dealer, or other person connected with the shipping interests, nor to recommend, directly or indirectly, to the master of any vessel arriving in the ports of this colony, or to any passenger, or any other person on board thereof, any merchant, agent, dealer, hotel-keeper, lodging-house keeper, tradesman, boatman, or other person whatever, for employment in any capacity, or to be dealt with for the shipping of stores, provisions, or supplies of any kind.

*No port captain to receive anything for pilotage.*

29. And be it further enacted, that nothing in this ordinance contained, shall be deemed or taken to authorize any port captain to make any charge, or to receive from the master of any vessel any sum of money, on the ground of pilotage or acting as a pilot.

*Pilots to be licensed.*

30. And be it further enacted, that it shall not be lawful for any person to act as, or exercise the employment of, a pilot to vessels entering into, or departing from, any of the ports in this colony, unless he shall be duly licensed by the governor for that purpose; and if any unlicensed person shall take charge of any such vessel as a pilot, unless such vessel shall be in distress, he shall forfeit the sum of £50.

*Mode of licensing pilots.*

31. And be it further enacted, that previously to any person being so licensed as a pilot, he shall be required to undergo an examination, touching his fitness and qualification to perform the duties of that employment, before two competent persons to be nominated by the governor: and if the persons so nominated shall report to the governor that the person who is a candidate for a pilot's licence had been duly examined by them, and that they are of opinion, that he is qualified to receive such licence, it shall then be lawful for the governor, if he shall see fit, to grant him a licence under his hand to act as, and exercise the employment of, a pilot in such port or ports of this colony as shall be named in such licence, and upon the granting of any such licence, the same shall be notified in the *Government Gazette*. Provided always, that if at any time afterwards the governor should see reason to annul such licence, it shall be lawful for him so to do.

*Employment of pilot voluntary.*

32. And be it further enacted, that it shall be at the election or discretion of the master to take or employ a pilot or not; and it is hereby declared that the government shall incur no risk or responsibility whatever, in respect of any licensed pilot whom the master shall, at his option, think fit to employ.



*No specific rates of pilotage established by this ordinance.*

33. And whereas, although it has been deemed expedient by the present ordinance to require that persons acting as pilots to vessels entering into the ports of this colony, shall be licensed, in order the better to provide for the competency and good conduct of such persons, it has not been deemed expedient to establish or fix any rates of pilotage or remuneration to pilots when employed, but to leave such remuneration for such service to be agreed upon or regulated between the master and pilot themselves: Be it, therefore, further enacted, that nothing in this ordinance contained shall be deemed to have established or fixed any specific rates of pilotage.

*Pilots may board before pratique received.*

34. And be it further enacted, that, in consideration of the nature of the services required of a pilot, it shall be lawful for any licensed pilot to proceed to any distance in the offing of any ports of this colony, and to board such vessel, if the master shall think fit to receive him or to accept of his services, notwithstanding that the vessel had not been previously boarded by the port captain as hereinbefore provided.—But in every such case, neither the pilot nor any of his crew shall communicate with persons on or from the shore, or with any other vessel lying at anchor, until the vessel which had been boarded by such pilot shall have received pratique.

*All boats owned in the colony to be licensed.*

35. And be it further enacted, that all individuals, proprietors of boats in this colony, whether used in the transport of merchandise, or for fishing, or for any other purpose whatsoever, shall be, and they are hereby, bound to obtain a licence for the employment of such boats, to be granted by the captains of the port, or the government residents, as the case may be, at the several ports in this colony, and to be renewed annually; and the proprietors of any boats employed without such licence, or without having had their licence renewed at the expiration thereof, shall be subject to a penalty of £5 sterling; and in case of the proprietor not being forthcoming, such boat so employed without the regular licence, shall be confiscated.

*Before licence granted bond to be passed.*

36. And be it further enacted, that no licence shall be granted for any boats as aforesaid, until the proprietor thereof shall have given bond, with two competent sureties, in the penal sum of £20 sterling, for their good and regular conduct, and for the due observance of these regulations, or such other as may hereafter be established by law on this head, and shall have produced a certificate of tonnage of the said boats, signed by a master shipwright or other competent person.

*All licensed boats to be numbered and registered.*Ordinance  
No. 4, 1844.Relating to  
Merchant  
Vessels

37. And be it further enacted, that all boats so licensed shall be numbered, and their numbers painted legibly on their sterns, in figures of not less than three inches in length, with black paint on a white ground, and shall be duly registered at the office from whence the licence shall be granted.

*No boat to board any vessel till flag of health hoisted.—Proprietors of boats responsible for the crew.*

38. And be it further enacted, that no boat belonging to any individual in this colony shall be allowed to board any vessel arriving in the ports thereof, until such vessel shall have hoisted the health flag under a penalty to be levied on the proprietor of such boat, of *ten pounds* sterling, independent of any other pains or penalties for a breach of the quarantine laws; and the proprietors of boats shall be considered responsible for the conduct of the persons they may place in charge thereof, in as far as relates to the contravention of any of these regulations.

*Penalty on proprietor of boat carrying wines or spirits to any ship at anchor.*

39. And be it further enacted, that if the proprietor of any boat, so licensed as aforesaid, or if any boatman or other person on board thereof, shall sell, supply, or convey any wine or spirituous liquors to any of the crew, or any other person on board of any ship lying at anchor in any of the ports of this colony, without the consent of the master of such ship, the proprietor of the boat shall forfeit the sum of £2 for the first offence, the sum of £5 for the second offence, and the sum of £10 for the third, or any further like offence.

*Three convictions within 12 months to forfeit licence.*

40. And be it further enacted, that whenever the proprietor of any licensed boat, shall have been convicted of the offence in the last preceding section mentioned three or more times within the space of twelve calendar months, then the licence for the boat, by means of which the last offence shall have been committed, shall thereupon *ipso facto* become null and void.

*Transfer of boat to avoid licence.*

41. And be it further enacted, that on the transfer by sale, or otherwise, of any boat as aforesaid, the licence for such boat shall become null and void, and the party to whom the boat may be transferred shall be required to take out a new licence, and enter into the security required by this Ordinance.

*Governor may remit any fine imposed by this Ordinance*

42. And be it further enacted, that it shall be lawful for the governor, if he shall see reason so to do, to remit or mitigate any fine or forfeiture incurred under this Ordinance.

Ordinance  
No. 4, 1844.

Relating to  
Merchant  
Vessels.

*Offences against this Ordinance, where cognizable.—Application of penalties.*

43. And be it further enacted, that all contraventions of the present Ordinance shall be cognizable in Cape Town before the resident magistrate or the judge of police,—and in any other of the ports, before the resident magistrate therein, or of the districts to which such port shall belong; and all such fines and forfeitures incurred under any of the provisions of this Ordinance shall be in sterling money, and shall be sued for in the said courts respectively; and all penalties and forfeitures recovered under this Ordinance shall be divided and applied as follows, that is to say,—one moiety of the proceeds to be paid to the person who shall inform and sue for the same, and the other moiety to be paid into the colonial treasury, and to be applied to the general revenue of the colony. Provided always, that it shall be lawful for the governor to pay the whole amount of the penalty or forfeiture, or such part thereof as shall have been recovered, to the person who had informed and sued for the same, instead of a moiety of such amount, if it shall be considered desirable or expedient by the governor so to do.

*Explanation of terms.*

44. And in order to avoid the frequent use of numerous terms and expressions in the Ordinance, and to prevent any misconstruction of the terms and expressions used therein;—be it further enacted, that whenever the terms or expressions following shall occur in this Ordinance, the same shall be construed respectively in the manner hereinafter directed, that is to say,—That the term ship, and the term vessel, shall be construed to mean ship or vessel generally; that the term master of any ship or vessel, shall be construed to mean the person having or taking the charge or command of such ship; that the term seaman, shall be construed to mean, alike, seaman, mariner, sailor, or landsman, being one of the crew of any ship; and that the term port captain shall extend to and embrace the deputy port captain, or any other person authorised to perform the particular duty, or act in the particular matter referred to, or in question in the clause or section in which the said term port captain is used; and that whenever mention is made of any public officer, the officer mentioned shall be deemed to be such officer for the time being, or the officer acting as such.

Form A. to which this Ordinance refers.

*Declaration of Health.*

Questions.

Answers.

1. Name of Vessel and Master?
2. From what Port, and whither bound?
3. When sailed?



4. At what intermediate Port, or Places, touched on the voyage, and date of sailing thence?
5. Any Troops or Convicts on board, and what number?
6. With what Vessel communicated during the voyage?
7. Date or dates of such communication?
8. Has any Person on board suffered any illness of any kind during the voyage? if so, what are the symptoms of the complaint?

I do hereby solemnly and truly declare, to the best of my knowledge and belief, that the vessel under my command is in a perfectly healthy state; and that during the voyage, neither measles, small pox, cholera morbus, or any other malignant disease of a contagious or infectious nature, have made their appearance on board, and that I have not touched at any port, excepting as above mentioned, or been boarded by, or communicated with, any vessel having, to my knowledge and belief, any of the above diseases on board, and I am ready to make this declaration on oath whenever I may be called upon so to do.

Given under my hand, this                      day of                      18                      Master.

Schedule B. to which this Ordinance refers.

*Tariff of salvages payable for the recovery of anchors or cables parted with, and also for searching for the same.*

For every anchor or cable having a buoy attached thereto,

For every British hundred weight thereof, . . . £0 5 0

For every anchor or cable *not* having a buoy attached thereto, there shall be payable, in addition to the above rate, the following further charges for the services of the port captain and his crew, and for the use of the boat and tackle employed in searching or sweeping for the same, viz:

For the superintendence of the port captain, for each day so employed, . . .

0 5 0

For each man of the Crew, . . .

0 2 6

For the use of the Boat and Tackle,, . . .

0 10 0

But in no case shall the above daily charges be made for any greater period than three days, unless with the previous sanction of the Governor.

*Gode save the Queen!*

Given at the Cape of Good Hope, this 30th Day of January 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,  
Acting Clerk to the Legislative Council.

No. 5, 1844.— (Signed) Geo. Napier.

*Ordinance.—To prevent the spread of the Horse Disease called Glanders. (¹)*

*Preamble.—Glandered horses treading out grain.—Penalty £10.*

WHEREAS there is reason to believe that a few farmers in this colony make use of glandered horses in treading out grain: And whereas such a practice may tend to spread disease amongst other horses fed with grain so trodden out: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this Ordinance, any person who shall knowingly make use of, or knowingly permit use to be made of, any horse or mare of any age or description whatever, which shall have, or be commonly deemed and taken to have, the disease called glanders, or to have the usual symptoms of the said disease, in trampling or treading out any species of grain, and whether the animal and the grain, or either of them, shall or shall not be the property of such person, shall for every offence incur and become liable to a penalty not exceeding ten and not less than five pounds, and in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding three and not less than one month.

*Use for any portion of the day a separate offence.*

2. And be it enacted, that the use, in manner aforesaid, of any such animal as aforesaid, for the whole or any part of any one day, shall constitute a separate offence, and that every day during which any one such animal as aforesaid shall be used as aforesaid shall also constitute a separate offence.

*If not kept in an enclosure penalty £5.*

3. And be it enacted, that the owner of every such animal as aforesaid, which shall have, or be commonly deemed and taken to have, the said disease called the glanders, or the usual symptoms of the said disease, shall cause the same to be kept shut up in some stable, kraal, or other complete enclosure; and in case any such animal shall, wilfully or by neglect, be permitted and allowed by the owner thereof, or his servants, to be or go from and out of such enclosure as aforesaid, unless in the actual and immediate charge of some person conducting the same by means of a riem, reins, or some such thing, shall incur and become liable to a penalty not exceeding five pounds and not less than one pound, and in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding one month.

(¹) Confirmed and allowed by the Queen, *vide* Government Notice, 1st October 1844.

*If allowed to go upon common pasture land, penalty £1.—Exceptions.* Ordinance  
No. 3, 1944.  
Glanders.

4. And be it enacted, that if any person, whether the owner of any such animal as aforesaid or not, shall ride, lead, or drive, or otherwise conduct, any such animal upon or along any public road, street or thoroughfare, or into any common pasture land, or any outspan place, such person shall incur and become liable to a penalty not exceeding five pounds, and not less than one pound, and in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding one month,—unless he shall prove to the satisfaction of the court before which the case shall be prosecuted, that the said animal was not affected by the disease called the glanders, or otherwise, that the said animal was at the time and place charged, in the act of being conducted to some particular place for the purpose of being examined or physicked, or otherwise treated for the sickness or disease under which he may be labouring, or in the act of returning from some such place; or otherwise, that the said animal having first exhibited the symptoms of the said disease when absent from the owner's place or residence, and at the time and place charged was in the act of returning or being conducted to the owners, or some other place, in order to be duly secured and taken care of.

*If found at large may be destroyed.—After inspection.—By whom.*

5. And be it enacted, that it shall and may be lawful for any person who shall find any such animal as aforesaid, without being in the charge of any person, in or upon any public road, street, or thoroughfare, or on any common pasture land, or outspan place, or upon the place or ground of any such person, to destroy any such animal: Provided always, that every such person shall be bound, before destroying any such animal, to obtain the approval, after inspection, of some field-cornet or acting field-cornet, or, otherwise, of two persons qualified to serve as common jurors; or, otherwise, of three males of full age who shall not be the servants of the person so destroying the said animal, or related to him within the second degree of consanguinity.—And in case any person shall destroy any such animal, without having obtained some such approval thereof as aforesaid, he shall incur and become liable to a fine not exceeding five pounds, and shall also be bound to make good to the owner of the animal destroyed, whatever damage, if any, he shall have sustained by the destruction of the same. <sup>(1)</sup>

*Penalties how to be applied.*

6. And be it enacted, that any person or persons who shall give such information as shall lead to the conviction of any such

<sup>(1)</sup> Dead horses must be buried,—see p. 16 and 17.



Ordinance  
No. 5, 1844.  
Glanders.

offender as aforesaid, shall be entitled to receive one half of the penalty aforesaid, and the other half of the said penalty shall be paid to the colonial treasury.

*God save the Queen !*

Given at the Cape of Good Hope, this 30th Day of January, 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,

Acting Clerk of the Legislative Council.

Govt. Notice.  
Feb. 5, 1844.

Marriage  
Officer.

UNDER and by virtue of Her Majesty's Order in Council dated at Windsor, the 7th day of September 1838, I do, by these presents, appoint Mr. Jan Fredrick Stegmann to be the marriage officer at the missionary institution called "Pniel," formerly known as the farm "Papier Molen," situate at Great Drakenstein, in the division of Stellenbosch, for parties actually members of the said institution and there resident.

And I do also direct, that the intention of such parties to marry before the said marriage officer, shall be made public by the publication of banns on three successive Sundays, by the said J. F. Stegmann, in the place of worship at the said institution, and in the presence of so many of the congregation as shall be there assembled for public worship in the forenoon.

And I do hereby further order and direct, that the said appointment shall cease and determine so soon as an ordained missionary shall be nominated to the charge of the said institution, and shall, in the mean time, be revocable at pleasure.

Given under my hand and the public Seal of the Colony, at the Cape of Good Hope, this 5th day of February 1844.

(Signed) George Napier, Governor.

### *Government Notice.*

Govt. Notice.  
Feb. 21, 1844.

Govt.  
Debentures.

WITH reference to the Proclamation of the 9th day of November last, in regard to the issue of debentures in sums of £ 50 and £100 at the colonial treasury, in exchange for government sterling notes: Notice is hereby given, that the several civil commissioners in the country divisions are authorized to receive such notes from parties who may be desirous of obtaining debentures, and to remit the same to the treasurer general, who will, thereupon, issue debentures for the sums so remitted to him,

bearing interest at 5 per cent. per annum *from the date upon which the respective sums are paid into the civil commissioner's hands.*

Govt. Notice.  
Feb. 21, 1844.

Govt.  
Debentures.

And, with reference to the last paragraph of the said Proclamation, His Excellency the Governor has been further pleased to direct that, in each and every case, three months' notice shall, at the least, be given of the intention to pay off any such debentures, as well those already issued as those which may be hereafter issued, in terms of the Proclamation aforesaid, or of this present authority.

Colonial Office, Cape of Good Hope, 21st February 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### *Government Notice.*

His Excellency the Governor has been pleased to direct, that transfer dues shall not be received by the Collector of Transfer Dues in Cape Town, upon any property situate in any part of the country districts, excepting on the production to him of a certificate by the party desiring to make payment of Transfer Dues in Cape Town, from the civil commissioner of the division in which such property is situated, to the effect that there is not any objection to his doing so.

Govt. Notice.  
Feb. 21, 1844.

Transfer  
Dues.

Colonial Office, Cape of Good Hope, 21st February 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### *Proclamation by His Excellency Major-General Sir George Thomas Napier, &c. &c.*

WHEREAS by the 4th section of the Ordinance No. 8, bearing date the 22d day of November 1843, and entitled "An Ordinance for improving the Public Roads of the Colony,"—it is enacted, that it shall and may be lawful for the governor of this colony to declare, by proclamation to be by him, from time to time, issued, what particular roads shall be deemed, and taken to be main roads, for the purposes of the said ordinance: And whereas it is expedient that the Simon's Town road, that is to say, the road commencing at the upper toll-gate at the military lines, south east of Cape Town, to and through the Village of Rondebosch, thence over Sunning Hill, through the Village of Plumstead to Muizenburg, Kalk Bay, and Elsjes Bay, to the toll-gate at Simon's Town, be declared to be a main road under

Proclamation  
Feb. 23, 1844.

Simon's Town  
Road to be a  
Main Road.

Proclamation  
Feb. 28, 1844.

Simon's Town  
Road to be a  
Main Road.

the provisions of the said ordinance. Now, therefore, I do hereby declare and proclaim, that the said road, described as above, is a main road for the purposes of the said ordinance.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 28th day of February 1844.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*Proclamation by His Excellency Major-General Sir George Thomas Napier, &c. &c.*

Proclamation  
Feb. 23, 1844:

Imports.

WHEREAS by an order of her majesty in council bearing date at Windsor, the 2d day of October 1843, it is ordered and directed that certain articles, the importation of which into this colony has been hitherto prohibited, shall now be permitted to be imported either to be warehoused, or for consumption; subject, nevertheless, if for consumption, to the payment of such duties as are set forth in the table in the said order contained:

And whereas it is further directed, that the said order shall come into operation from the time when it shall be made known by a proclamation of the governor of this colony:—Now, therefore, I do hereby proclaim and make known, that the said order has this day been received by me from the right honorable lord STANLEY, one of her majesty's principal secretaries of state, and I do direct that a copy thereof be published, with this proclamation, for the information and guidance of whomsoever it may concern.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 23rd day of February 1844.

(Signed) Geo. Napier.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*At the Court at Windsor, the 2d day of October 1843.*

WHEREAS under and by virtue of an order of his late Majesty King William the Fourth in council, dated the 22d day of Feb.



1832, and of an act of parliament passed in the session of parliament held in the fourth and fifth years of the reign of his said late majesty, intituled "An Act to amend the Laws relating to the Customs", by which certain doubts with regard to the continuance of the said order were removed, the following goods are prohibited to be imported or brought into the colony of the Cape of Good Hope, that is to say,—

*Beef*, } fresh or salted, except from the United Kingdom, or  
*Pork*, } from some other British possession.

*Fish*, dried or salted.

*Train Oil, Blubber, Fins, or Skins*, the produce of creatures living in the sea; except from the United Kingdom, or from some other British possession, or unless taken by British ships fitted out from the United Kingdom, or from some British possession, and brought in from the fishery; and except Herrings from the Isle of Man, taken and cured by the inhabitants thereof.

And such goods, if imported or brought into the said colony of the Cape of Good Hope, contrary to the said prohibitions, are, by the said order, declared to be forfeited.

And whereas by an act of parliament passed in the session of parliament held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act to regulate the trade of the British possessions abroad", it was amongst other things enacted, that it should be lawful for His Majesty, by and with the advice of his privy council, by any order or orders in council to be issued from time to time, to give such directions, and make such regulations, touching the trade and commerce to and from any British possessions on or near the continent of Europe, or within the Mediterranean Sea, or in Africa, or within the limits of the East India company's charter, (excepting the possessions of the said company,) as to his majesty in council should appear most expedient and salutary, anything in the said act to the contrary notwithstanding.

And whereas it is expedient that the prohibitions hereinafter mentioned should be discontinued, and that the said articles so prohibited as aforesaid, should henceforth be permitted to be imported into the said colony of the Cape of Good Hope, either to be warehoused or for consumption, subject, nevertheless, if for consumption, to such duties as the same may, for the time being, be liable to; and that the several articles specified in the table herein contained, should be subject, on importation into the said colony of the Cape of Good Hope when entered for home consumption, to the duties hereinafter set forth, in lieu of the duties (if any) now payable thereon.

Now, therefore, Her Majesty doth, with the advice of Her Privy Council, and in pursuance and exercise of the power so vested in her as aforesaid, by the said lastly hereinbefore recited act of parliament, order, and it is hereby ordered,—

Proclamation  
Feb. 23, 1844.

Imports.

Proclamation  
Feb. 23, 1844.

Imports.

That so much of the said recited order in council as prohibits the importation and bringing into the said colony of the Cape of Good Hope, the articles hereinbefore described, and as declares the same to be forfeited if imported or brought contrary to such prohibitions, shall be, and the same is hereby, revoked.

And it is hereby further ordered, that upon the articles mentioned in the table of duties hereinafter contained, imported into the said colony of the Cape of Good Hope, there shall be levied upon the entry thereof, for consumption, the several duties of customs, as the same are respectively set forth in figures in the said table, in lieu of the duties, if any, to which the same articles are liable, under or by virtue of any order in council now in force in the said colony of the Cape of Good Hope.

And it is hereby further ordered, that the duties set forth in the said table shall be levied, paid, received and appropriated in like manner as if the same had been imposed and set forth by and in the certain orders in council bearing date respectively the 22d day of February 1832, and the 11th day of March 1842, imposing duties upon the importation of goods into the colony of the Cape of Good Hope.

And it is hereby further ordered, that this order shall come into operation from the time when the same shall be made known in the said colony, by a proclamation of the governor of the said colony of the Cape of Good Hope.

*Table of Customs' Duties.*

<i>Meat</i> ,—Salted or Cured, of all sorts, not being the production or manufacture of the United Kingdom or of any British possession, the cwt. - - - - -	£0 3 0
<i>Meat</i> ,—Salted or Cured, of all sorts, being the production or manufacture of the United Kingdom, or of any British possession, the cwt. - - - - -	0 1 3
<i>Oil</i> ,—Train and Blubber, the produce of fish or creatures living in the sea, of foreign fishing the tun, (imperial measure.) -	3 0 0
<i>Oil</i> .—Spermaceti, of foreign fishing, the tun (imperial measure.) - - - - -	7 10 0
<i>Fish</i> ,—Dried or Salted, and Fins and Skins, the produce of creatures living in the sea, of foreign fishing, or taking, for every £100 of the value thereof, - - - - -	12 0 0

And the right honorable the lords commissioners of Her Majesty's treasury, and the right honorable lord Stanley, one of Her Majesty's principal secretaries of state, are to give the necessary directions herein.

C. C. Greville.

No. 6, 1844.—(Signed) George Napier.

Ordinance  
No. 6, 1844.

Sales by  
Auction.

*Ordinance.—For regulating Sales by Auction.<sup>(1)</sup>*

*Preamble.—Ordinance No. 31, 1827, repealed.*

WHEREAS the law as contained in Ordinance No. 31, 1827, intituled “An ordinance for abolishing the office of vendues, and for imposing certain duties on licences to be taken out by all persons acting as auctioneers, and on property sold by auction,” requires to be amended: And whereas the said law may be most conveniently amended by repealing the said ordinance, and enacting other provisions in its room and stead:—<sup>(2)</sup> Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the first day of July 1844, the said Ordinance No. 31, 1827, shall be, and the same is hereby, repealed, save and except in so far as the same repeals any former laws before that time in force in this colony, and in so far as relates to, or concerns, the recovery of any duties imposed by virtue of the said ordinance, or of any sum or sums of money due upon vendue notes or rolls, or in any manner become due by reason of, or in connection with, any public sale which shall be unpaid and in arrear on the said first day of July, 1844.

*Auctioneer's licence—stamp £3.—Acting without licence, penalty £100.—How to be applied.*

2. And be it further enacted, that from and after the said first day of July 1844, it shall be lawful for any person complying with the regulations hereinafter mentioned, to exercise the trade or business of an auctioneer, upon taking out a licence, which shall be in force for one year from the date thereof, and no longer, from the commissioner of stamps in Cape Town, or the distributors of stamps in the several districts of the colony, within their respective districts, on paper stamped, to the value of *three pounds* sterling, and which shall contain the true name and residence of the person taking out such licence; and if any person shall exercise the said trade or business of an auctioneer, without having a licence in force at the time when he shall so exercise the said trade or business, or sell by way of auction as aforesaid, he shall, for every such offence, incur and be liable to the payment of a fine not exceeding *one hundred pounds* sterling, to be recovered in any competent court, one half of which shall be paid to the informer, and the other half to the colonial treasury.

(1) Confirmed and allowed by the Queen.—*vide* Government Notice, 1st October 1844.

(2) *Vide* vol. I, p. 379; *vide* also Ordinance No. 13, 1844.



*Existing licences to stand good.*

3. And be it enacted, that every licence to exercise the said trade or business, duly taken out by any person under and by virtue of the said Ordinance No. 31, 1827, and whereof the time for which the same purported to be in force shall not have expired on the day aforesaid from which this ordinance is to take effect, shall be deemed, taken, and judged of, and be of like force and effect, for and during the said unexpired residue of the time for which the same was first granted, as if the same had been originally taken out under this ordinance.

*Auction duty, 4 per cent. on moveable property—and 2 per cent. on immoveable property.*

4. And be it further enacted, that from the said first day of July 1844, a duty of, and at the rate of *four pounds* sterling for every *hundred pounds* sterling of the purchase money, shall be imposed on all moveable property; and a duty of, and at the rate of, *two pounds* sterling for every *hundred pounds* sterling of the purchase money on all immoveable property which shall be sold by auction in this colony.

*When moveable property may be sold as immoveable.*

5. And be it enacted, that when and as often as any machinery, implements, utensils, or other matters or things belonging to, or intended for, any trade or manufacture, and whether the same shall be fastened to the ground or building upon or in which the same shall be placed, or separable or separated therefrom, as the case may be, or any moveable property whatever, shall be put up and sold in one lot together with any immoveable property, (whether the immoveable property upon or in which the same shall be at the time of the sale or not,) then the whole of the said lot shall for the purpose of the payment of auction duty, and of transfer duty, be deemed and taken to be immoveable property, and be chargeable as such.

*Duties a charge upon auctioneer.*

6. And be it enacted, that the several duties aforesaid shall be a charge upon the auctioneer, after the knocking down of the hammer or other closing of the bidding, at every sale by way of auction.

*Certificate of security to be obtained before licence.*

7. And be it enacted, that no such licence as aforesaid shall be granted by the commissioner of stamps aforesaid, or any distributor of stamps to any person, until such person shall have produced to such commissioner or distributor, a certificate under the hand of the collector of taxes in Cape Town, or the civil commissioner of this division, as in the next succeeding section mentioned,—that such person has given the security in the said section described,—and the said collector of taxes or civil commissioner, as the case may be, is hereby authorized

and required to accept such security from every person desiring him so to do, and thereupon to grant a certificate under his hand.

Ordinance  
No. 6, 1844.

*Recognizance to be entered into—before whom—amount thereof.*

Sales by  
Auction.

8. And be it enacted, that every person about taking out such licence as aforesaid, shall enter into a recognizance before the collector of taxes in Cape Town,<sup>(1)</sup> if such person shall reside in Cape Town, and before the civil commissioner of the division in which such person resides, if he reside in the country, in the sum of £1000 sterling, with two sufficient sureties in the sum of £500 sterling each, which recognizance, with the condition thereof, shall be in the form in the schedule to this ordinance prescribed and set forth; and such recognizance shall be acknowledged in the presence of, and shall be signed by, the said collector of taxes or civil commissioner as the case may be.

*Accounts to be verified on oath.*

9. And be it enacted, that every person who shall have received such licence as aforesaid, or, otherwise, the person who acted as his clerk at the sales in the account in the condition of the said recognizance mentioned and set forth, shall make oath to the truth of every such account, and every person making such oath, shall, in case the same be false, be deemed to be guilty of the crime of perjury.

*Recognizance by whom to be put in suit.*

10. And be it enacted, that every such recognizance as aforesaid may be put in suit by the collector of taxes or civil commissioner, as the case may be, before whom the same was acknowledged, or by the officer for the time being acting as such collector or civil commissioner; and in case of judgment being given against the defendant, the licence granted upon such recognizance shall become void.

*Auctioneer, not to be licenced to retail wine &c.*

11. And be it enacted, that no licensed auctioneer shall be competent to take out or hold the licence commonly called a retail wine and spirit licence, nor to retail, by virtue, or under pretence, of any such licence by him taken out or held, any of the liquors mentioned in such retail wine and spirit licence, under the penalties by law imposed upon persons selling the same without a licence.

*Sales, when void—remission of dues, how to be obtained.*

12. And whereas it may sometimes happen, that sales at auction of property may be rendered null and void, by reason that the person for whose benefit the same shall be sold, had no title or no right to dispose of the same, be it further enacted, that from and after the said first day of July 1844, if any sale by auction of any estate, goods or chattles, shall be rendered

<sup>(1)</sup> Ordinance No. 13, 1844, directs these recognizances to be taken before the civil commissioner of the Cape division.

Ordinance  
No. 6, 1844.

Sales by  
Auction.

void by reason that the person for whose benefit the same was so sold had no title to the same, or no right to dispose thereof, then in every such case, it shall be lawful for the auctioneer who paid the duty for the property so sold, or for the person for whose benefit the same was so sold, to lay his complaint before the collector of taxes, or civil commissioner within whose jurisdiction, respectively, such sale was made, who are hereby required and empowered to hear all such complaints, and to ~~examine~~ all witnesses produced upon oath, and shall report the case for the information of the governor of this colony for the time being, in order that the party may be relieved of so much of his payment as shall appear to have been overpaid.

*Owner of property not liable to duty upon buying in the same.*

13. And be it enacted, that in case the real owner of any property put up to sale by auction shall become the purchaser by means of his own bidding, or the bidding of any other person on his behalf, without fraud or collusion, then the said collector of taxes, and civil commissioner respectively, shall make an allowance to such owner of the duties hereby imposed upon such bidding, provided notice be given to the auctioneer before such bidding, both by the owner and the person intending to be the bidder, of the latter being appointed by the former, and having agreed accordingly to bid at the sale on behalf of the seller, and provided such notice be verified by the oath of the auctioneer, as also the fairness and reality of the said transaction, to the best of his knowledge and belief; and in case any dispute shall arise, whether such purchase by the owner was not made by collusion, or in order to lessen the full sum hereby appointed to be paid, or concerning the fairness of such transaction, then, and in such case, proof thereof shall lie upon the person acting as auctioneer, and on failure thereof, or in case of any unfair practice, then no such allowance shall be made as aforesaid.

*Government property may be sold by others than auctioneers.*

14. And be it enacted, that it shall and may be lawful for any person appointed by his excellency the governor in that behalf, to sell by public sale for, or on account of, the government of this colony, any property, moveable or immovable, belonging to the said government, without taking out any licence to exercise the trade or business of an auctioneer, or entering into any recognizance, or being bound to comply with any of the regulations of this Ordinance, any thing contained in any of the former clauses of this Ordinance to the contrary notwithstanding.

*Schedule.*

Division of (or Cape Town, as  
the case may be,)

Before me (collector of taxes, in Cape Town, or civil commis-



sioner for the division of                   ,) on the           day of  
 18   , A.B. of           C.D. of           and E.F. of           ,  
 acknowledge themselves to owe to our Sovereign Lady the  
 Queen, that is to say, the said A.B. the sum of £1000, and the  
 said C.D. and E.F. each the sum of £500, to be made and  
 levied of their goods and chattels respectively.

Ordinance  
 No. 6, 1844.

Sales by  
 Auction.

The condition of the above written recognizance is such,  
 that if the said A. B. shall, by virtue of, or in reference to,  
 these presents, obtain a licence to exercise the trade or busi-  
 ness of an auctioneer, he shall render (to the said collector of  
 taxes or civil commissioner as the case may be), an exact and  
 true account in writing of the total amount of the money bid at  
 each sale, and of the several lots which have been there sold,  
 and the price thereof respectively, and, for that purpose shall  
 produce to the said collector of taxes or civil commissioner, (as  
 the case may be) all books kept by him relative to his said  
 trade or business on the first day of every month (if to the col-  
 lector of taxes in Cape Town, but if in a country division, then  
 say, "on the first day of every quarter, to be computed from  
 the first day of July 1844,") and shall within three months,  
 from the date of every such sale, make payment of all sums  
 of money imposed upon him by way of duty by this ordinance;  
 and shall whenever thereto required by (the said collector of  
 taxes or civil commissioner, as the case may be,) truly and just-  
 ly declare under his hand whether or not he has, in any specified  
 period, held any sale as such auctioneer as aforesaid; and if  
 he shall so do as aforesaid, than this recognizance to be void,  
 but otherwise to be of full force and effect.

*God save the Queen!*

Given at the Cape of Good Hope, this 28th day of February 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
 Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,  
 Acting Clerk of the Legislative Council.

No. 7, 1844.—(Signed) George Napier.

*Ordinance.—For the discipline and safe custody of the  
 Convicts employed upon the Public Roads.*

*Preamble.—Visiting magistrates may be appointed to convict gangs.*

WHEREAS, in pursuance of the provisions of Ordinance No. 8,  
 1843, intituled "An ordinance for improving the public roads  
 of this colony," (1) certain convicts sentenced to hard labor are

Ordinance  
 No. 7, 1844.

Convicts on  
 Public Roads.

(1) *Vide supra.* See Ordinance No. 10, 1844, *infra*, confirmed and  
 allowed by the Queen,—*Vide* Government Notice, 31st October 1844.

to be employed upon the said public roads: And whereas it is expedient, for the maintenance of proper order and behaviour amongst the said convicts, that certain rules and regulations in that respect should, from time to time, under due authority, be established, and that certain visiting magistrates should be appointed to the duty of inspecting such convict gangs, and for upholding due regard to discipline, under and in virtue of such rules and regulations: And whereas it is also expedient that the jurisdiction hereby vested in any resident magistrate, should be exercised on the spot where any such convict gang may be stationed: Be it, therefore, enacted by the governor of the Cape of Good Hope, by and with the consent of the legislative council thereof, that from and after the promulgation of this Ordinance, it shall and may be lawful for the governor of this colony, for the time being, from time to time, as occasion may require, to appoint any resident magistrate, or justice of the peace, to be the visiting magistrate, or one of the visiting magistrates, of any gang of convicts employed, as aforesaid, upon the public roads; and from time to time to revoke every such appointment; and every such appointment, and every revocation of any such appointment, shall be notified in the *Government Gazette*.

*Governor may frame regulations.*

2. And be it enacted, that it shall and may be lawful for the governor of this colony for the time being, from time to time, to make rules and regulations, specifying and prescribing the duties of such visiting magistrates as aforesaid, and, from time to time, to alter, amend, or revoke the said rules and regulations: and it shall be the duty of every such magistrate, and he is hereby required, to obey and conform to every such rule and regulation which shall be in force, provided the same be not contrary to law.

*Convicts proved guilty of misbehaviour,—offences defined,—punishments prescribed.*

3. And be it enacted, that when, in the course of any visit to, or inspection of, any gang of convicts, which it shall be the duty of any such visiting magistrate as aforesaid to visit and inspect, it shall be proved to the satisfaction of any such magistrate, that any convict belonging to such gang shall have been guilty of misbehaviour in any of the following respects: 1st, of a repetition of any misbehaviour theretofore punished by the superintendent of such gang;—2nd, of any flagrant act of disorder or breach of prison discipline;—3rd, of insolence in language or manner towards the superintendent of the gang,—it shall be lawful for every such magistrate as aforesaid, and he is hereby empowered, to order any such convict to labour during any number of hours extra his ordinary hours for labour, not

exceeding forty-eight, or to be placed in solitary confinement, for any number of nights, not exceeding twenty-four, or to be placed in solitary confinement, and with or without spare diet, for any uninterrupted period not exceeding fourteen days, or to receive personal correction by any number of lashes not exceeding twenty-five.

Ordinance  
No. 7, 1844.

Convicts on  
Public Roads.

*In case of desertion, and voluntary return,—punishment prescribed.*

4. And be it enacted, that any convict who shall, without lawful cause, desert from the station where he shall be placed by the authority of the governor of this colony for the time being, but who shall voluntarily return to the said station at any time within *forty-eight* hours from the time of his departure, shall, upon due conviction thereof, before any resident magistrate, be and become liable to suffer, either in lieu of, or in addition to, any of the punishments in the last preceding section mentioned, imprisonment and hard labour for any period not exceeding six calendar months, to commence and be computed from the expiration of the sentence or sentences of imprisonment which such convict was liable to undergo at the time of his desertion as aforesaid.

*Superintendents, &c. to see punishments enforced.*

5. And be it enacted, that it shall be the duty of the superintendent, overseers, and constables, in charge of any such gang of convicts as aforesaid, and they are hereby respectively required, to cause every convict who shall by any such order as aforesaid of any visiting magistrate or resident magistrate, be ordered to undergo any such punishment as aforesaid, to undergo the same in manner and form as by the said visiting magistrate or resident magistrate directed, and for so doing, such order, or a copy thereof, signed by the said visiting magistrate, or resident magistrate, shall be a sufficient warrant to each of the said persons respectively.

*In case of disobedience, or of certain other offences defined.—Superintendent may authorise certain punishments; but shall keep record thereof, and in case of neglect, penalty £50.*

6. And be it enacted, that in case any convict belonging to any such convict gang as aforesaid shall wilfully disobey any lawful order, or if he shall exhibit insolence in language or manner to any officer belonging to the station, while such officer shall be on duty, or to any constable or police officer while on duty, or if he shall be guilty of profane cursing and swearing, or of any indecent behaviour, or if he shall, without sufficient reason, be absent at any hour appointed for muster, or school, or the services of the chapel; or if he shall use to any person intimidating language or threatening acts, or if he shall wilfully mismanage any of his allotted work, or if he shall wantonly destroy or injure any clothing, food, implements of labour, or



Ordinance  
No. 7, 1844.

Convicts on  
Public Roads.

any other matter or thing entrusted to him to use, the superintendent of the said gang shall be empowered, in addition to any other penalties which he may be authorized to inflict, to order the convict so offending to labour during any number of hours extra his ordinary hours for labour, not exceeding twenty-four in the whole, and three in any one day, or to be placed in solitary confinement with or without spare diet for any number of nights not exceeding six, or for any uninterrupted period not exceeding four days, with or without spare diet, or to be kept on spare diet for any period not exceeding three days; provided always, that the said superintendent shall make a record, in a book to be kept for that purpose, of every case in which any punishment as last aforesaid shall be ordered by him, showing the name of the convict, the nature of the misbehaviour, and the punishment ordered; and shall submit such record for the examination of the magistrate upon the occasion of his then next visit; and if any such superintendent shall wilfully neglect to make such a record as is herein directed, or shall not make the same a true and *bona fide* record, or shall neglect to submit such record for the examination of the visiting magistrate upon the occasion of his then next visit, such superintendent shall, for every such omission of his duty, incur and be liable to a penalty not exceeding fifty pounds, to be paid to the colonial treasury.

*In case of deserion, and no voluntary return punishment perscribed.*

7. And be it enacted, that any convict who shall desert from the station where he shall be placed and who shall not return thereto voluntarily, and within forty-eight hours from the time of his departure, shall upon conviction of such offence be liable to imprisonment, with hard labour, for any period not exceeding two years, to commence from the expiration of any period or periods of imprisonment which he shall have previously been sentenced to undergo, and which, at the date of such his desertion, he shall not have undergone, and also to receive corporal punishment in any number of lashes not exceeding seventy-five.

*Court of the resident magistrate—jurisdiction.*

8. And be it enacted, that the court of the resident magistrate for the district in which the convict shall have originally deserted, or that of the district in which the gang from which he so deserted shall be placed when he shall be brought to trial, or of any district in which he shall have been after having deserted and before being retaken, shall have jurisdiction in every case of the offence in the last preceding section mentioned, and may adjudge and condemn the party offending to such, and so much, of the punishments in the said section mentioned as such court shall see cause to adjudge thereon.

*Court may be held at convict station.—Superintendent may prosecute if clerk of the peace be absent.*

Ordinance  
No. 7, 1844.

Convicts on  
Public Roads.

9. And be it enacted, that for the purpose of trying any such last mentioned case, or any such case as in the fourth section of this ordinance mentioned, in the court of the resident magistrate for the district within which the gang to which the offenders belonged as aforesaid shall then be placed, such court may be held at the spot or station where any such gang shall be stationed at the time of the said trial.—And whenever such court shall be held at such last mentioned spot or station the superintendent for the time being of the gang aforesaid, shall, in the absence of the clerk of the peace for the district, have the same authority to prosecute for the said crime of desertion from punishment, which the said clerk of the peace would, if present, have by law possessed.

*Apprehension of deserter—reward.*

10. And be it enacted, that every person not being an officer in charge of, or belonging to, the gang from which the convict shall escape, who shall apprehend and secure any convict who shall have escaped from any such convict gang as aforesaid, and shall cause such convict to be lodged in any of the public gaols, or in custody of the superintendent of any convict station, shall be entitled to receive out of the colonial treasury (over and above his just and reasonable expenses,) such sum not exceeding three pounds sterling, for each such convict, as the governor of this colony for the time being shall consider and authorise such person to have become entitled to, by reason of any such apprehension.

*Superintendent and others constituted constables.—Other constables how to be appointed.*

11. And be it enacted, that every superintendent, head-overseer, and sub-overseers, duly appointed by authority of the governor of this colony for the time being, shall be deemed and taken to be a constable, and that it shall and may be lawful for the governor of this colony for the time being, and for any such visiting magistrates as aforesaid, from time to time, to nominate and appoint so many other persons as the said governor, or the said visiting magistrate, shall deem necessary, to be and act as constables at the several convict stations, and such persons shall be, and they are hereby declared to be, invested with all powers, authorities, and functions by law belonging to constables or officers of police: Provided always, and it is hereby declared, that every appointment made by any such visiting magistrate shall be subject to the approval of the said governor, and that every such constable shall be removeable at the pleasure of the said governor for the time being, and may be suspended by any such magistrate, until the pleasure of the said governor for the

Ordinance  
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Convicts on  
Public Roads.

time being, shall be expressed thereon, and that no such visiting magistrate shall have any authority to appoint or suspend any such constable as aforesaid to or at any station other than the one of which he shall be the magistrate.

*Certain laws applicable to certain other crimes to apply to the crime of desertion from punishment.*

12. And be it enacted, that all such constables as aforesaid shall be, and they are hereby, authorised and required to use all lawful means in their power for retaining the convicts under their charge in safe custody. And that the crime of desertion from punishment, as defined in the 7th section of this Ordinance, shall, with reference to and for the purposes of the provisions of the ordinances hereinafter mentioned, be deemed and taken to be a crime of equal degree of guilt with the crimes specified in the 14th section of the Ordinance No. 73,<sup>(1)</sup> "intituled an ordinance for explaining, altering and amending the ordinance No. 40,"<sup>(2)</sup> and that all and singular the provisions made and contained in the 12th, 13th, 14th, 15th, 17th, 18th, and 19th sections of the said Ordinance No. 73, and in the 1st section of the ordinance No. 2, 1837, <sup>(3)</sup> intituled "an ordinance for the more effectual prevention of crimes against life and property within the colony," shall extend and apply, and they are hereby extended and made applicable, to every person who shall have committed, or shall on reasonable grounds be suspected to have committed, or shall attempt or clearly manifest an intention to commit, the said crime of desertion from punishment.

*God save the Queen!*

Given at the Cape of Good Hope, this 28th day of February 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,

Acting Clerk of the Legislative Council.

### *Government Notice.*

Govt. Notice,  
Mar. 6, 1844.

The term  
Acre.

WITH reference to the Proclamation of the 18th of January last, notifying the intended sale of several extents of crown land on Saturday, the 23rd day of the present month, in which the upset price is stated *at per acre*; and as the Inhabitants of this colony are, in general, unacquainted with such measurement, and the surveys of the said lands have been made in Rhyndland

(1) *Vide* vol. 2, p. 116. (2) *Vide* vol. 1, p. 408. (3) *Vide* vol. 2, p. 442.



measure in the manner hitherto customary,—His Excellency the Governor desires it to be publicly known that at such sales the term acre will be considered by the government synonymous with half a morgen Rhyndland, and that in the titles consequent upon such sales, one half morgen will be included for every acre then purchased.

Govt. Notice.  
Mar. 6, 1844.

The term  
Acre.

Colonial Office, Cape Town, 6th March 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### Government Notice.

WHEREAS many graziers and farmers in Worcester and Clanwilliam have been accustomed, for several years past, to resort with their flocks and herds, in certain seasons, to the Karoo Plains in those divisions, and to make use of portions of the land there, known in Worcester as *Legplekken*, and in Clanwilliam as *Trekvelde*, or *Achtervelde*; And whereas application has recently been made to his excellency the governor, by some of the said graziers and farmers, for permission to continue in the occupancy and the use of such lands:—Notice is hereby given that the said *Legplekken*, and *Trek* or *Achtervelde*, being crown lands,—his excellency has no power to dispose of them otherwise than by public sale, upon the terms and conditions continued in the notice of the 7th September last; but that as government has no present intention of alienating the said lands, unless application be made for the sale of the same, at a rate not lower than the *minimum* price fixed by the said notice,—his excellency has authorised the civil commissioners of Worcester and Clanwilliam, respectively, to let them, from year to year, by public auction, in quantities not exceeding 5000 morgen, to any one person, until required for government purposes or for sale, and that the first lease by auction will be held in front of their respective offices on Wednesday, the 1st day of May next.

Govt. Notice.  
Mar. 14, 1844.

Legplekken  
at Worcester.

Similar auctions will take place on the first Wednesday in May of every subsequent year.

Colonial Office, Cape of Good Hope, 14th March 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### Government Notice.

WITH reference to the notice of the 7th September last, requiring all persons who make claims to grants of land founded upon applications received at this office before the 9th day of

Govt. Notice.  
Mar. 15, 1844.

Grants of  
Land.

Govt. Notice,  
Mar. 15, 1844.

Grants of  
Land.

January 1832, to transmit particulars of their claims to the surveyor general on or before this present day's date,—Notice is hereby given, that the prescribed period having expired, no such claim will henceforth be received or attended to.

Colonial Office, Cape of Good Hope, 15th March 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

### *Government Notice.*

Govt. Notice  
Mar. 15 1844.

Notaries'  
Protocols.

WHEREAS the former and useful practice of examining the protocols of the licensed notaries public of this colony, in order to ascertain that the minutes or drafts of the various acts, deeds, and instruments made or passed by or before them, are conformable to law, and bear the stamps by law required, has, for some time past, fallen into disuse: And whereas it is expedient to make provision for the restoration of the said practice;—Notice is hereby given, that his excellency the governor is pleased to appoint the following persons to be commissioners for examining in the manner and form as by law authorised and enjoined, the protocols and registers of the notaries public resident and practising in the respective places for which such persons are hereby severally appointed to act; that is to say:—

#### *For Cape Town and the district thereof.*

Clerke Burton, Esq., master of the supreme court, and J. J. le Sueur, Esq., justice of the peace.

#### *For the district of Wynberg, exclusive of Simon's Town.*

Geo. Longmore, Esq., resident magistrate, and C. G. Blanckenberg, Esq., justice of the peace.

#### *For Simon's Town.*

Geo. Longmore, Esq., resident magistrate, and C. M. Lind, Esq., justice of the peace.

#### *For the District of Malmesbury.*

J. M. Hill, Esq., resident magistrate, and J. D. Freilich, Esq., clerk of the peace.

#### *For the district of Stellenbosch.*

D. J. van Ryneveld, Esq., resident magistrate, and F. Dickinson, Esq., clerk of the peace.

#### *For the district of the Paarl.*

H. Piers, Esq., resident magistrate, and J. Addey, Esq., justice of the peace.

#### *For the district of Worcester.*

P. J. Truter, Esq., resident magistrate, and W de Wet, Esq., justice of the peace.

*For the district of Clanwilliam.*

J. van Ryneveld, Esq., resident magistrate, and W. Kekewich, Esq., clerk of the peace.

Govt Notice.  
Mar. 15, 1844.

Notaries'  
Protocols.

*For the district of Caledon.*

J. Barnes, Esq., resident magistrate, and R. J. van der Riet, Esq., clerk of the peace.

*For the district of Swellendam.*

L. Dickson, Esq., resident magistrate, and W. Harding, Esq., clerk of the peace.

*For the district of George.*

D. Moodie, Esq., resident magistrate, and J. Pawle, Esq., justice of the peace.

*For the district of Beaufort.*

J. J. Meintjes, Esq., resident magistrate, and J. N. de Villiers, Esq., justice of the peace.

*For the district of Uitenhage.*

J. W. van der Riet, Esq., resident magistrate, and S. H. du Toit, Esq., justice of the peace.

*For the district of Port Elizabeth.*

W. Lloyd, Esq., resident magistrate, and F. Gie, Esq., clerk of the peace.

*For the district of Albany.*

M. West, Esq., resident magistrate, and T. Stringfellow, Esq., justice of the peace.

*For the district of Somerset.*

E. M. Cole, Esq., resident magistrate, and J. O'Reilly, Esq., clerk of the peace.

*For the district of Cradock.*

W. Gilfillan, Esq., resident magistrate, and R. Blair, Esq., clerk of the peace.

*For the district of Colesberg.*

F. Rawstone, Esq., resident magistrate, and J. Campbell, Esq., clerk of the peace.

*For the district of Graaff-Reniet.*

W. C. van Ryneveld, Esq., resident magistrate, and A. Berrange, Esq., clerk of the peace.

And His Excellency is further pleased to order and direct, that no such commissioner shall read any minute or Draft, except with the approbation and concurrence of his co-commissioner, and then only when there is reason to believe that the stamp duties by law required have been evaded, or that such minute or draft is otherwise irregular or improper.

And all notaries public admitted to practise in this colony, are hereby required and directed to produce their protocols and register, to such of the commissioners as are hereby authorized



Govt. Notice.  
Mar. 15, 1844.

Notaries'  
Protocols.

to inspect the same at such time and places as the said commissioners shall appoint, on pain of being struck off the roll of notaries, and being for ever incapacitated from being again admitted to practise as such.

Colonial Office, Cape of Good Hope, 15th March 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

*Proclamation by His Excellency Lieut-General Sir  
Peregrine Maitland.*

Proclamation  
Mar. 18, 1844.

Sir P. Mait-  
land's as-  
sumption of  
Government

WHEREAS Her Majesty, by letters patent bearing date at Westminster, the nineteenth day of December, in the year one thousand eight hundred and forty-three, has been graciously pleased to nominate and appoint me governor of this settlement, with the territories and dependencies thereof, I have this day taken and subscribed the oaths accordingly, of which notice is hereby given to all officers, civil and military; and all persons and inhabitants whatsoever in this colony, are hereby called upon, from the date of these presents, to obey all orders and commands that may from time to time be issued by me.

*God save the Queen!*

Given under my Hand and Seal, at the Cape of Good Hope, this 18th day of March, 1844.

(Signed) P. Maitland.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

*Government Notice.*

Govt. Notice.  
Mar. 28, 1844.

River  
Hooghly.

HIS excellency the governor has been pleased, at the request of the Government at Bengal, to direct that the following notice be published for general information.

Colonial Office, Cape of Good Hope, 28th March 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

*Notice touching the pilot station for the River Hooghly during  
the S. W. Monsoon of the year 1843, &c.*

The experience of a second season's trial of the new pilot station off the south channel having established that it can be made by vessels from false point with the greatest facility, and that pilots can also be readily supplied, and the same causes existing

which during last S. W. Monsoon rendered necessary the removal of the pilot station from off point Palmyras to a position about fifteen miles S.W. b. W. of the outer floating light in latitude  $20^{\circ} 56'$  N. longitude  $88^{\circ} 03'$  E., and in from 17 to 22 fathoms water,—Notice is hereby given, that this latter station will in future be continued during S. W. Monsoon, viz., from 15th March to the 15th September.

Govt. Notice.  
Mar. 28, 1844.

River  
Hooghly.

No difficulty can possibly be felt in passing from false point to the new station, if common attention be paid to the lead and to the following directions, prepared by Captain Lloyd, late offg. marine surveyor general, after a careful survey of the ground between the two points.

False point light house is in lat.  $20^{\circ} 19\frac{1}{2}'$  N. and long.  $86^{\circ} 47'$  E., and the south channel buoy in lat.  $25^{\circ} 59'$  N. and long.  $88^{\circ} 4'$  E., and bears from the light house N.  $61^{\circ}$  E. true, or N.E. by E.  $\frac{1}{4}$  E. by compass, distant 83 miles and is laid 12 fms.

“A bank of soundings extends from off point Palmyras in a direction towards the tail of the western sea reef, and the nature of the bottom (as distinguished from that of the Hooghly deposit which is sand and mud with shining specks) is a gravelly substance composed of sand shells and small pebbles discharged from the “Kunka,” and other rivers near point Palmyras, the lighter material of which being carried further out, is deposited, and forms what is called the ‘pilot’s ridge,’ which in crossing to the N.Wd., shows a little less water than on either side. In coming from seaward you shoal rather suddenly from 28 to 23 fms. upon its eastern edge. It is composed of a shelly sand, or minute gravel of a reddish or rusty brown color.

The best guide, therefore, to enable a vessel to direct her course from table point to the vessel at the new station, will be to run down the edge of the “pilot’s ridge,” which can readily be done by making the light house, and bringing it to bear about W.S.W. or S.W. by W. distant by computation from 10 to 15 miles, then steering to the E.N. Ed., and having gradually increased the depth of water to 23 fathoms upon the eastern edge of the ridge, regulate the course to keep between it and 27 fathoms, when by attention to the lead and nature of the soundings, course and distance run from the light house, it is almost impossible to miss the pilot vessels (if the above limits are kept within) either by getting too far to windward or falling to leeward; for the soundings increase so rapidly to seaward from the proposed new station, that 28 fathoms will not be more than 3 or 4 miles to the southward of it, and 23 fathoms the same distance to the westward of it.

“The soundings to seaward of the ridge are in general a greenish or olive coloured mud, with occasionally a few bits of broken shells mixed with it.”

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Mar. 28, 1844.

River  
Hooghly.

Vessels approaching the station during the day are required to shew the usual signal for a pilot, and by night to give as early and as much warning as possible by firing guns, burning blue lights, and by exhibiting two lights in a vertical position, when best seen, but commanders are strictly enjoined to avoid as much as possible making the station during the night.

To mark the station until a proper light vessel is built, of which due notice will be given, one of the pilot vessels will shew during the day a large St. George's Jack (white with red cross) at the main-top-gallant-mast head and a good mast-head light during the night, and will burn a blue light and a maroon alternately every half hour, and fire a gun at 8 p.m., at midnight, and at 4 a.m. Vessels approaching the station and while there,

\* The light vessels are directed when another vessel is approaching during the night, to shew a light at the gaff and mark the way they are riding.

as well as when approaching the \* light and buoy station, vessels are warned to be careful in avoiding collision by night or by day—and in communicating with either of the above vessels, either at anchor or hove

to, when it is necessary, to cross her, to pass under the stern; several instances of serious damage having occurred during the S. W. monsoon, whereby the outer floating light was more than once compelled to leave her station for repairs, to the great inconvenience and risk of vessels entering and quitting the river.

By order of the superintendent of marine,

C. B. Greenlaw, Secretary.

Fort William, the 14th Dec. 1843.

Secretary of  
State's des-  
patch.

THE following despatches from the right hon'ble the secretary of State for the colonies, and letters patent under the great seal of the united kingdom, were read this day in the legislative council.

Chamber of the Legislative Council, 2d April 1844.

(Signed) J. Moore Graig,  
Acting Clerk of the Legislative Council.

SIR,—I have the honor to acquaint you, that I have received a despatch from Sir George Napier, dated the 6th September last, transmitting an ordinance passed by the legislative council of the Cape of Good Hope, for applying a sum not exceeding £161,039, for the service of the year 1844, with an explanatory report, an estimate of the probable revenue for the same year, a statement of the estimated and actual revenue for the year



1842, and a comparative view of the estimated revenue for the years 1843 and 1844.

Secretary of  
State's des-  
patch.

Sir Geo. Napier has likewise transmitted the reasons of dissent recorded by certain members of the council against the course adopted in passing the appropriation ordinance; from which it appears that they deny its validity on the ground that the royal instructions to the governor, and the standing rules of the council, require the publication of every law for at least three weeks before the enactment of it,—a proceeding which had not been observed in this case.

As this protest is a repetition only of the protest made by the same members of council against the appropriation ordinance of 1842, I was prepared for its reception, and for obviating in future the difficulty which had been suggested.

On the renewal of the commission and instructions for the government of the colony of the Cape of Good Hope in your favour, the Queen was advised to omit the clause requiring the publication of laws for any definite time before enactment of them, and to issue those instruments in such form as to create anew the power of legislation unfettered by any such express condition.

I have adopted this course, because it appears to me inexpedient that the movements of a legislative body should be impeded by positive and inflexible rules of this nature, which, however salutary they may be as general guides, and as regulating the ordinary habits of the legislature, may in many conceivable, and not improbable cases, be productive of extreme inconvenience.

I am of opinion that such rules should originate with the body to be governed by them, and that they should be capable of being suspended as often and for so long a period as that body may at any time think proper, or of being qualified by such exceptions as experience may suggest and justify. But although the Queen leaves the legislative council of the Cape of Good Hope free to lay down for their own observance such regulations as they may think fit respecting the publication of ordinances before the enactment of them, Her Majesty expects and requires that the practice hitherto followed in this respect be not abandoned or altered except on some ground which may seem to the council, or to a majority of them, at any meeting of that body, urgently to call for such a change.

If it were practicable to lay the estimates before the council at once in the form of an ordinance with schedules annexed to it, the council should require the publication of that ordinance, according to the usual practice, the result would be attended with very serious consequences, and give rise to many unnecessary difficulties and misapprehensions. For in their progress through the council, such schedules might be continually undergoing minute alterations and not unfrequently such changes as might

Secretary of  
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patch.

materially affect the plan of the annual expenditure. And as the first or original publication must exhibit the views of the government before they had been corrected and matured by the deliberations and advice of the council, the effect of promulgating them in that comparatively crude form, must be to provoke much needless and unprofitable public controversy.

For three weeks together, the public journals, and the public at large, would be engaged in debating a vast body of proposed expenses, the justification of which could not be published by the government, and respecting some of which the government themselves might not have formed more than a conjectural or hypothetical decision.

To throw out such an invitation to controversies at once irritating from their nature, and interminable from the obscurity of the questions to be discussed, could hardly promote the ends of good government.

The most entire publicity respecting the use to be made of the public resources is, of course, not only conducive but essential to frugality in the employment of them.

The government can have no motive for desiring any concealment on this head, or for obstructing any remonstrances which any of the Queen's subjects may wish to make against any contemplated expenditure. But there is no apparent good reason why, for securing such publicity, a rule never observed either in this country or in any other British colony, should be established at the Cape of Good Hope, as of indispensable obligation. No complaint is heard that the estimates laid before Parliament escape the notoriety requisite for the full public discussion of them: no such complaint has reached me from any British colony; yet this advantage of publicity is secured without any peremptory rule framed for that express purpose.

Every member of the British and of the other colonial legislatures is placed in possession of a printed copy of the estimates in time enough before the day appointed for the discussion of them, to enable him to prepare himself for that purpose.

To these printed estimates are subjoined all necessary explanations.

In practice it is never found that any parts of such estimates are less known to the persons more immediately affected by them, than they would have been if published in the London Gazette.

The objection is, not to taking the most effectual precautions against secrecy, but to framing those precautions in such a manner and under such sanctions as to render them fatal to the effective despatch of the public business.

Having made provision for the future with respect to the mode of passing local ordinances, it is unnecessary for me to consider very closely how far the protests of 1842 and 1843 were well founded in point of law. If, contrary to the opinion of persons

of the highest authority who have been consulted on the subject, the Appropriation Ordinances of those years were not sufficient to justify the consequent expenditure of Her Majesty's revenue at the Cape of Good Hope for those years, the Queen would be prepared to give to that expenditure such a sanction as shall effectually supersede any such question.

The final decision of Her Majesty's government on the estimates for 1843—4, will be communicated to you in another despatch.

I have, &c.

Stanley.

Governor Lt.-Gen. Sir Per. Maitland, K.C.B. &c. &c.

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*Downing-street, 4th January 1844.*

Sir,—I transmit to you the accompanying letters patent under the great seal of the United Kingdom, the effect of which is to authorize the governor and legislative council of the colony of the Cape of Good Hope, to make such amendments as they may think necessary in the existing charter for the administration of justice there.

The necessity for such a change in the law has been suggested by some of the despatches of your immediate predecessor, and especially by his despatch of the 7th July 1843, No. 114. From these communications it has been made evident, that the public tranquillity and good government of the colony have been prejudiced by the non-existence there of any power competent to correct any errors which the charter of justice may contain, or to adapt the provisions of it to the new exigencies of society. It has hitherto had the character of a law virtually unalterable, and admitting of no amendment. For as such amendments could be made only by the direct exercise of the royal authority in this kingdom, and as the recourse to that remedial power was beset by difficulties almost insuperable, it has never, except in one solitary instance, been called into action.

The practice of establishing in the British colonies courts of justice by royal charters which the local legislatures were incapable of changing in any respect, however minute, is of comparatively recent origin. It appears to have been borrowed from the institutions of British India, and to have been dictated by the same policy,—that namely of providing a counterpoise to the authority, legislative and executive, of the government, and of preventing the perversion of it to improper ends. Without pausing to investigate the probability of any such abuses in the present times, I confine myself to the remark, that the prevention or the correction of them could hardly be provided for by any arrangement more objectionable and inconvenient. To



Secretary of  
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obviate a possible though infrequent mischief, it maintains the chronic evil of rivalry, if not actual hostility, between the judicial and the other departments of the local government. It generates much unseemly controversy which could hardly arise, and which in point of fact is not found to arise, in colonies where legislation is unfettered by any such restraint. It perpetuates original errors, or principles which in progress of time have become obsolete and inapplicable to the altered condition of affairs, and it checks progressive improvement in those institutions on which, more than on any other, the well-being of society depends.

Under the influence, as I presume, of such considerations as these, parliament has placed the judicial in subordination to the legislative power, in all the Australian colonies and in Newfoundland. The same course has been followed by the crown in Ceylon, and in all the West India colonies in which royal charters of justice existed. In introducing the same system at the Cape of Good Hope, Her Majesty, therefore, follows a current of precedents reaching to almost every part of her colonial dominions. For this subordination is the invariable rule in all colonies possessing representative assemblies.

From the preceeding remarks you will perceive that the issuing of these letters patent is dictated by no distrust of the judges, and is not to be construed as impugning, in any degree, their claims to the confidence of the Queen, or of Her Majesty's subjects. It is a change dictated by motives of permanent expediency, and of universal application.

I have not any immediate suggestions to make for the amendment of the existing charter except in one respect. I think it will be right that a law should be introduced securing the lieutenant governor of the eastern districts within the limits of his command, the same precedence over the judges, and all other persons there, as would belong to a lieutenant governor in the actual administration of the government during the governor's absence from the colony itself. This is manifestly in accordance with the original design, and with the general system prevailing, and which ought to prevail, throughout the British colonies.

The preceding remarks, and the accompanying letters patent supersede, and relieve me from, the necessity of entering into the protracted discussions to which the enclosures to the dispatch of the 7th of July are devoted. To this general statement two exceptions are, indeed, to be made.

First.—I think that as often as it may be necessary for the judges to make any reports on the affairs of the eastern districts, they should address them to the lieutenant governor, in order that he may forward them to the governor with his own report on the subject. The only effect of disregarding this rule, and

of inverting this order of proceeding, by addressing such reports to the governor in the first instance, would be that of imposing on him the duty of passing them, for the purpose already mentioned, to the lieutenant governor.

Secretary of  
State's des-  
patch.

I am, however, far from satisfied of the expediency of the judges making any reports whatever to the executive government, on any subject not falling strictly within the range of their judicial duties. I refer, of course, to official and formal reports, not to those private and informal communications which judges, in common with any other gentlemen possessing peculiar means of information, may think it desirable to impart to the chief executive authorities. Yet even in cases of this kind, when the intelligence or the suggestions to be so conveyed relate to the affairs of the eastern districts, I think that the judges ought to address themselves to the lieutenant governor of those districts.

Secondly.—Without expressing an opinion as to the propriety of the interference of the judges with the department of the agent general, I think it due to them to say, that they seem to me not to have exceeded their lawful authority in issuing direct orders to the civil commissioner as to the mode of providing for the expenses of their circuit. It was a proceeding sanctioned by the established practice, and by the governor's directions. I express no opinion as to the wisdom of that practice, or of those directions. Their existence relieves the judges from any censure for the course they pursued, and justifies their statement, that under such circumstances, the lieutenant governor's signature was requisite only as a voucher to prove that the expense had been incurred under lawful authority.

I have, &c.

Stanley.

Lieut.Gen. Sir P. Maitland, &c., &c., &c.,

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VICTORIA, by the grace of God, United kingdom of Great Britain and Ireland, Queen, Defender of the faith. To all to whom these presents shall come,—Greeting.

WHEREAS His late Majesty king William the Fourth, by his letters patent bearing date the fourth day of May in the second year of his reign, and in the year of our Lord one thousand eight hundred and and thirty-two, did grant, ordain, and appoint, that there should be within the colony of the Cape of Good Hope one supreme court of justice, and certain subordinate or circuit courts to be holden as therein mentioned; and it was thereby, amongst other things, provided, that nothing therein contained should extend, or be construed to extend, or prevent his said late Majesty, his heirs, and successors, from

repealing the said letters patent, or any part thereof, or from making such further or other provision, by letters patent, for the administration of justice, civil and criminal, within the said colony, and for places then, or at any time hereafter, to be annexed thereto, as to his said late Majesty, his heirs, and successors should seem fit, in as full and ample a manner as if the said letters patent had not been made, the said letters patent or anything contained therein to the contrary anywise, notwithstanding; And whereas experience has shown that the provisions of the said recited charter, from time to time, require amendments for the adaptation thereof to the exigencies of society within the said colony, but inasmuch as no authority exists within the same competent to that purpose, the making of such amendments is attended with great difficulty and delay; Now, therefore, for the avoidance of the inconvenience aforesaid, and for promoting the administration of justice within the said colony, We, of our special grace, mere motion, and certain knowledge, have granted, appointed and declared, and do hereby, for Us, Our heirs, and successors, grant, appoint, and declare, that it shall and may be competent to the governor, or to the officer for the time being administering the government of the said colony, by any laws or ordinances to be by him from time to time made, with the advice and consent of the legislative council of the said colony, to make provision for the better administration of justice within the said colony, and for altering and amending the constitution of the supreme court, or of any other court of civil or criminal justice within the same, and for regulating the manner of proceeding within such courts, or any of them, and the limits, whether territorial or otherwise, of the jurisdiction of said courts respectively, and the times and places of holding such courts, and the number and functions of the officers to be employed in and about the administration of justice, in or under the orders of the said courts respectively, and the powers and authorities of the judges and other officers of the said respective courts, and all other matters and things incident to, or which to them may appear necessary for economical, prompt, and effective administration of civil and criminal justice within the said colony and its dependencies; and all such laws and ordinances so to be made as aforesaid, shall within the said colony and its dependencies have the same force and authority as any other laws or ordinances of the said governor and legislative council, anything in the said recited charter or letters patent contained to the contrary notwithstanding;—provided, that every such law or ordinance be so made in such manner and form, and subject to all such rules and regulations, as are or shall be in force in reference to any other laws or ordinances of the local legislature of the said colony; and also provided, that no law or ordinance relating to, or affecting, the adminis-



tration of justice within the said colony, or its dependencies, shall take effect in the said colony, or shall have the force or authority of law there, until the same shall have been ratified and confirmed by Us, Our heirs, and successors, unless the same shall have been passed by the unanimous votes of the said legislative council; but in any case wherein any such unanimous votes of the members of the said legislature shall be given in favour of the immediate operation of any such law or ordinance as aforesaid, then, and in every such case, it is Our further will and pleasure, that the same shall take effect within the said colony, and shall have the force and authority of law, immediately from and after the date and enactment thereof; subject nevertheless to Our right and authority to disallow the same, if in any such case we should be so advised: Provided, always, that nothing in these presents contained, nor any act which shall be done under the authority hereof, shall extend, or be construed to extend, to prevent Us, Our heirs and successors, by any other letters patent to be by us or them from time to time, for that purpose, issued under the great seal of the United Kingdom, from revoking these presents, or any part thereof, or from making such further or other provisions for the administration of justice throughout the said colony and its dependencies at Our and their will and pleasure as circumstances may require.

In witness whereof, We have caused these Our letters to be made patent.—Witness Ourselves, at Westminster, the 28th day of November, in the seventh year of Our reign.

By Writ of Privy Seal,

(Signed)

Edmonds.

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*Government Notice.*

HIS Excellency the Governor having been pleased to decide, that the Seal Island in Mossel Bay shall not be granted on lease for the present, hereby prohibits all persons from disturbing the seals on the said island, and warns them from trespassing there after this notice, on pain of prosecution.

Colonial Office, Cape of Good Hope, 12th April 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

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*Government Notice.*

WHEREAS for the purpose of redeeming, and withdrawing from circulation, the government notes of this colony, the late governor Sir George Thomas Napier, K.C.B., did, by proclamation

Letters  
Patent.

The Charter.

Govt. Notice.  
Apr. 12, 1844.

Seal Island.

Govt. Notice.  
May 2, 1844.

Debentures.

Govt. Notice,  
May 2, 1844.

Debentures.

dated the 9th November last, authorize the treasurer-general to issue debentures in sums of £100 and £50 in exchange for specie to the amount of £10,000 in sterling money of Great Britain, and also in exchange for such government notes to any amount presented at the colonial treasury, and for which the holders might desire to obtain such debentures; And whereas, by government notice dated 21st February last, it was made known that similar debentures would be issued to parties in the country divisions, upon their paying government notes into the hands of the respective civil commissioners, and to the amount of such payments.

And whereas debentures to the amount of £20,950 have been issued up to the present date, whilst a sum in government notes of £20,000 only remains unredeemed and uncanceled, which charge the resources of the colonial treasury are amply sufficient to meet without the issue of any further debentures:—Notice is hereby given, that the issue of such debentures has ceased; but that the outstanding government notes will continue to be received by the commissariat department in exchange for bills upon Her Majesty's treasury, on the same terms as British silver money; and that they will also be exchanged for specie, on demand, at the colonial treasury, or at the offices of the respective civil commissioners, until further notice.

And as his excellency the governor is anxious that all such outstanding notes shall be redeemed, and withdrawn from circulation, as speedily as possible; and as the period of their exchange for specie will therefore be limited,—all managers of banks, assurance offices, and other public establishments, and all inhabitants generally, are hereby called upon to present such notes for exchange without delay.

Colonial Office, Cape of Good Hope, 2d May, 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

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### *Government Notice.*

Govt. Notice.  
Apr. 29, 1844.

Public  
Holidays.

WHEREAS inconvenience has arisen to the public service from the number of holidays kept, and certain irregularities in the days of their observance;—His Excellency the governor has been pleased to issue the following directions:—

That Good Friday, Easter Monday, Ascension day, and Whit Monday, be kept as holidays.

That Christmas day be also a holiday, but that no other day be kept as a holiday in lieu of it, should it fall on a Sunday.

That the anniversary of Her Majesty's birthday be kept as a holiday; and should it fall on Sunday, that the following Monday shall be a holiday.

And that New Year's day, the anniversary of the battle of Waterloo, and the anniversary of Her Majesty's coronation, be no longer kept as holidays.

Colonial Office, Cape of Good Hope, 29th April 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

Govt. Notice,  
April 2, 1844.

Public  
Holidays.

### *Government Notice.*

SEVERAL trades-people, domestic servants, and others having arrived from Port Philip, for the purpose of settling in this colony, and as, upon this unexpected importation of labour, they may, to obtain employment, be induced to engage their services at lower rates than is consistent with their proper maintenance, or is usual here.

Govt. Notice,  
May 2, 1844.

Immigrants  
from Port  
Philip.

And His Excellency the governor considering this addition to the labouring population of much importance to the colony, and that the individuals in question require and deserve such assistance as the government is enabled to afford them; Notice is hereby given, that His Excellency the governor has requested the honorable Harry Rivers, Esq, treasurer general, and Lt. colonel C. C. Michell, surveyor general, to advise the said persons, both as respects the rate of remuneration which they ought to obtain, and the character of the service proposed to them.

These persons consist of 3 house carpenters, 2 house servants, 1 butcher, 1 stone mason, and 1 quarryman, married,—and— with two exceptions—with families; and 2 stone masons, 1 coachman, 1 shepherd, 1 gardener, 1 teacher, 1 butler, 1 house carpenter, 1 blacksmith, and 1 malster, unmarried.

The residences of these persons may be known on application to this office.

Colonial Office, Cape of Good Hope, 2nd May 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.

### *Government Notice.*

HIS Excellency the governor has been pleased to direct the publication for general information of the annexed copy of an Act passed in the last session of the imperial parliament, for giving effect to the 10th article of the treaty of Washington, between Her Majesty and the United States of America, which provides for the mutual surrender of fugitive criminals in certain cases

Govt. Notice,  
May 9, 1844.

Fugitive  
Offenders.

Colonial Office, Cape of Good Hope, 9th May 1844.

By His Excellency's Command,

(Signed) John Montagu,  
Secretary to Government.



## CAP. LXXVI.

Govt. Notice.  
May 9, 1844.

Fugitive  
Offenders.

An Act for giving effect to a treaty between Her Majesty and the U. S. of *America* for the apprehension of certain offenders.

[22d August 1843.]

WHEREAS by the tenth article of a treaty between Her Majesty and the United States of *America*, signed at *Washington* on the ninth day of *August* in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at *London* on the thirteenth day of *October* in the same year, it was agreed that Her Majesty and the said United States should, upon mutual requisitions by them or their ministers, officers, or authorities respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either of the high contracting parties, should seek an asylum, or should be found within the territories of the other; provided that this should only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found would justify his apprehension and commitment for trial if the crime or offence had been there committed, and that the respective judges and other magistrates of the two governments should have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such judges or other magistrates respectively, to the end that the evidence of criminality might be heard and considered, and if on such hearing the evidence should be deemed sufficient to sustain the charge it should be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant might issue for the surrender of such fugitive, and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive; and it is by the eleventh article of the said treaty further agreed, that the tenth article, herein-before recited, should continue in force until one or other of the high contracting parties should signify its wish to terminate it, and no longer: And whereas it is expedient that provision should be made for carrying the said agreement into effect; be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that in case requisition shall at any time be made by the authority of the said United States, in pursuance of and according to the said treaty, for the delivery of any person charged with the crime of murder, or assault with intent to commit murder, or with the crime of piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed

Govt. Notice.  
May 9, 1844.

Fugitive  
Offenders.

within the jurisdiction of the United States of *America*, who shall be found within the territories of Her Majesty, it shall be lawful for one of Her Majesty's principal secretaries of state, or in *Ireland* for the chief secretary of the lord lieutenant of *Ireland*, and in any of Her Majesty's colonies or possessions abroad for the officer administering the government of any such colony or possession, by warrant, under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace, and other magistrates and officers of justice within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol, for the purpose of being delivered up to justice, according to the provisions of the said treaty; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons accused of crime against the laws of that part of Her Majesty's dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as according to the laws of that part of Her Majesty's dominions would justify the apprehension and committal for trial of the person so accused if the crime of which he or she shall be so accused had been there committed it shall be lawful for such justice of the peace, or other person having power to commit as aforesaid, to issue his warrant for the apprehension of such person, and also to commit the person so accused to gaol, there to remain until delivered pursuant to such requisition as aforesaid.

2. Provided always, and be it enacted, that in every such case, copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

3. And be it enacted, that upon the certificate of such justice of the peace, or other person having to commit as aforesaid, that such supposed offender has been so committed to gaol, it shall be lawful for one of Her Majesty's principal secretaries of state, or in *Ireland* for the chief secretary of the lord lieutenant of *Ireland*, and in any of Her Majesty's colonies or possessions abroad for the officer administering the government of any such colony or possession, by warrant under his hand and seal to order the person so committed to be delivered to such person or persons as shall be authorized, in the name of the said United States, to receive the person so committed, and to convey such person to the territories of the said United States, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid to hold such person in custody, and take him or her to the territories of the

Govt. Notice.  
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said United States, pursuant to the said treaty; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he or she shall so escape, may be retaken upon an escape.

4. And be it enacted, that where any person who shall have been committed under this act, to remain until delivered up pursuant to a requisition as aforesaid shall not be delivered up pursuant thereto, and conveyed out of Her Majesty's dominions within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he or she was committed by the readiest way out of Her Majesty's dominions, it shall in every such case be lawful for any of Her Majesty's judges in that part of Her Majesty's dominions in which such supposed offender shall be in custody; upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to some or one of Her Majesty's principal secretaries of state, or in *Ireland* to the chief secretary of the lord lieutenant of *Ireland*, and, in any of Her Majesty's colonies or possessions abroad, to the officer administering the government of any such colony or possession, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such judge or judges why such discharge ought not to be ordered.

5. And be it enacted, that if by any law or ordinance to be hereafter made by the local legislature of any *British* colony or possession abroad provision shall be made for carrying into complete effect within such colony or possession the objects of this present act, by the substitution of some other enactment in lieu thereof, then it shall be competent for Her Majesty, with the advice of her privy council, (if to Her Majesty in council it shall seem meet, but not otherwise,) to suspend the operation within any such colony or possession of this present Act, so long as such substituted enactment shall continue in force there, and no longer.

6. And be it enacted, that this Act shall continue in force during the continuance of the tenth article of the said treaty.

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### *Government Notice.*

Govt Notice.  
May 15, 1844.

Quitrents.

As the period fixed by the government notification of the 8th January last, for the receipt at this office of applications for the conversion of the tenure of quitrent lands into freehold expired on the 31st March, and as there is reason to believe that parties who have not sent in such applications may be desirous to do so if



such period be extended :—Notice is hereby given, that His Excellency the governor will be prepared, in future, to consent to such conversions upon the following terms and conditions, viz :—  
 Payment, to the civil commissioner of the division in which the land is situate, of a sum equal to fifteen years' purchase of the rent and stamps, within six months from the date of the application, and also of the payment of the rent up to *the date* upon which the purchase money shall be paid.

Govt. Notice.  
 May 15, 1844.  
 Quitrents.

Applicants are required to forward their title deeds (grants and transfers.) together with the receipt for the previous years' rent, when they make their applications: and holders of subdivisions *upon which the rent has not been apportioned by Government*, will take notice, that applications in which the holder or holders of the remaining extent of the grants do not join, cannot be entertained unless they, at the same time, transmit a certificate, under the signature of such holders or co-proprietors of the portion of the rent which they agree shall continue chargeable upon the divisions or division which it is not desired to convert into freehold.

Where places are held in partnership, or by joint proprietors, *without subdivision*, no conversion can be allowed of the share or shares considered to belong to any one or more of the partners or proprietors; and in every such case, the conversion can only be made of the whole place or property

Colonial Office, Cape of Good Hope, 15th May 1844.

By His Excellency's Command,  
 (Signed) John Montagu,  
 Secretary to Government.

### *Government Notice.*

IN accordance with instructions received from the right honorable the secretary of state, His Excellency the governor has prepared and directed the publication, for general information, of the following corrected conditions and regulations upon which unappropriated crown lands in this colony will, in future, be disposed of <sup>(1)</sup>

Govt. Notice.  
 May 15, 1844.  
 Sales of  
 Land.

His Excellency has also directed separate copies of this notice and the regulations, in the English and Dutch languages, to be transmitted, through the several civil commissioners, to the field-cornets of their respective divisions, who, on their parts, are hereby required, and strictly enjoined, to distribute the copies as extensively as possible amongst the inhabitants of their respective wards, in order that the said regulations may be fully known.

Colonial Office, Cape of Good Hope, 15th May 1844.

By His Excellency's Command,  
 (Signed) John Montagu,  
 Secretary to Government.

(1) *Vide p. 336, supra.*

Govt. Notice,  
May 15, 1844.

### Conditions and Regulations

*Upon which the Crown Lands at the Cape of Good Hope will be disposed of.*

1. The unappropriated crown lands in this colony will be sold in freehold, and by public auction only.

2. Unless it is otherwise notified, the upset price for such sales, will be two shillings, (2s) per acre, (one acre is about half a morgen,) but the governor for the time being will have the power to fix such higher upset price as the locality, or other circumstances, may render expedient, of which due notice will always be publicly given.

3. Persons desirous of becoming purchasers will apply, in writing, to the secretary to government respecting the land they wish to have put up for sale; stating in what division it is situated, and, as far as practicable, its position, boundaries, and probable extent.

These applications, after being recorded in the colonial office, will be transmitted to the surveyor general, who, if he see no objection to the land being disposed of, will call upon the applicant to deposit with him the probable expense of the survey; which expense will be calculated upon the following tariff, and be borne by the eventual purchaser.

#### *Tariff of Charges.*

*For the Survey and Measurement of Land throughout the Colony.*

For a piece of ground, and dividing the same into small lots or erven, for the first <i>four</i> lots, each,	£0 12 0
For any beyond that number, - - - - -	0 9 0
For the measurement of any piece of land up to 10 morgen, - - - - -	0 12 0
For every morgen above 10 up to 100, per morgen, - - - - -	0 0 3
For 100 morgen, - - - - -	1 14 6
For every morgen above 100, as far as 500, per morgen, - - - - -	0 0 1½
For 500 morgen, - - - - -	4 4 6
For every morgen above 500, per morgen, - - - - -	0 0 1
For 3,000 morgen, - - - - -	14 12 10
For every morgen above the same, - - - - -	0 0 1
For every diagram, - - - - -	0 12 0

4. Should the applicant not become the purchaser, the amount deposited by him will be refunded when paid by the eventual purchaser; but should no sale take place, no refund can be made.

5. Lands offered for sale will be advertised for two months in the *Government Gazette*, at the expiration of which time they will be sold by public auction.

6. Ten per cent of the purchase money must be paid at the time of sale, and the balance, (with the expenses of the survey,

if the purchaser did not make the deposit,) within one calendar month from the day of sale; in default of which, the 10 per cent so paid will be forfeited to the colonial treasury.

Govt. Notice,  
May 15 1844.

Sales of  
Land.

Colonial Office, Cape of Good Hope, 15th May 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

THE subjoined minute by His Excellency the governor, and estimate of the probable expenditure for the government of this colony for the service of the year 1845, having been this day read and laid upon the table, are directed by His Excellency to be published for general information.

Govt Minute  
May 28, 1844.

Finance.

Chamber of the Legislative Council, 28th May 1844.

(Signed)

J. Moore Craig,

Acting Clerk of the Legislative Council.

### *Minute.—Finance.*

Government House, Cape Town, 28th May 1844.

Honorable Gentlemen,—in submitting, for your consideration the estimates of the revenue and expenditure for the service of the year 1845, you will perceive that they have been so framed as to enable you, readily, to ascertain the exact amount of expenditure proposed for each establishment of the government, as well as the particular items for each department.

These estimates have been prepared with a due regard to the efficiency of the public service, and with a rigid attention to economy.

I have been enabled to reduce the expenditure of 1845, as compared with the estimate of the current year, by the sum of £9,791. 14. 2. while the revenue for the same periods shows an augmentation in favour of 1845, of £10,790. 11. 0, notwithstanding the abolition of the port dues and the relinquishment to the central board of road commissioners of the turnpike tolls, which, together, would have amounted to £5,500.

To the estimates of the expenditure are attached explanatory notes, showing the alterations of increase or decrease in every department, and the secretary to government will endeavour to afford you whatever further information you may require on the details.

Under *Civil Establishment*, you will find that the tax and transfer office will be abolished, and the duties be performed from the 1st January next, by the treasurer general. By this arrangement, a reduction of £1,022 will be effected.



Govt. Minute  
May 28, 1844.

Finance.

In the registrar of deeds' office, a reduction of £240 a year will be effected, and a further reduction of £100 will be made on the 1st of January 1846.

It is my intention, immediately, to introduce arrangements for gradually relieving that office from preparing the conveyances required for registration. By throwing that duty upon the applicants, and by confining the department to the business of registration only, two of the clerks can be reduced in 1845, and one in 1846.

In the surveyor-general's department, I shall abolish the two superintendents of crown forests, as I intend to offer those forests for sale in a few months, taking care, however, to give sufficient publicity of this intention in England, to afford ship builders there the opportunity of purchasing them,—the timber being highly prized for ship-building purposes.

In the post office department, I have proposed an increase of £524, for the expenditure of 1845. This department is daily increasing in importance and revenue, and it is, at the present time, under the consideration of the government to increase its efficiency and usefulness to the public, by altering the postage to one uniform rate, chargeable upon weight only, without reference to distance, and, also, by adding to the opportunities for correspondence.

I am in hopes, that a uniform rate of postage, not exceeding three pence or four pence the half ounce, will produce a revenue equal to the present collections; and when the existing contracts for the conveyance of the mails expire in December 1845, it is my intention, in calling again for tenders, to require the contractors to travel at such a rate as will enable the post to be conveyed between Cape Town and Graham's Town, twice a week, each way, in 70 hours.

I have no doubt, from the great improvements now making in the roads, that this will be perfectly practicable. This time last year, that distance was not performed by the post in less than 135 hours: it is now accomplished in about 105.

In carrying out this measure, I shall propose to you to discontinue franking entirely, and I shall cause public letters to be paid for by the government, through the heads of departments, under proper regulations.

You will perceive, that the total charge for the civil establishment, is £48,561. 13. 1.

Under the head "*Ecclesiastical and school establishments*" you will find, that I have abolished, as charges on public revenue, the salaries of the church clerks, sextons, bell ringers, and organists for the church of England and the Dutch reformed church. It appears to me, that charges of this description should be borne by the congregations themselves, as is the case with the several other denominations of christians whose churches

receive aid from the colonial funds. I am of opinion, that the money you have hitherto voted for the persons alluded to, ought, however, to be continued to the two churches from which the reductions have been made, for the purpose of increasing the ministers of those two denominations.

Court Minute  
May 18, 1844  
Finance.

The amount for church clerks, &c., discontinued from the church of England, is £ 363 15. 0 ; and from the Dutch reformed, £ 709. 12. 4. For the former I have estimated, in lieu thereof, £ 400, and for the latter £ 800, providing six ministers of religion, at £ 200 per annum each. The total amount proposed for the ecclesiastical establishment, is £ 10,173. 14. 6.

Upon the "*school establishment*," I have added £ 551. 15. 0. over the vote for the current year, making the charge for that branch £ 6,696. 15. 0. to which, I feel confident, you will accede, from the anxious disposition you have ever evinced to promote an object of such immense importance to the best interests of the colony.

The "*medical establishment*" will undergo a material revision.

In consequence of the concentration of the convicts in road gangs, the duties of the salaried medical officers in the several districts, with the exception of Albany, have been so reduced, as to render it unnecessary to retain them on their present footing.

From the 1st January next, the medical services performed for the government in the districts alluded to, will be compensated by fees, and the reductions consequent thereon, and some diminution in the expenditure of the Somerset Hospital will amount to £1,786. 10.

The total amount for the medical establishment for 1845 is, as you will perceive by the estimate, £7,123. 16. 9. a sum unnecessarily great, in my opinion, for that branch of the service.

The heavy charges at present incurred, through this establishment, for lepers and paupers, are now under my consideration, and I contemplate, by concentrating the several establishments appropriated to those persons, and by the adoption of more rigid checks on the expenses, and a more efficient control than can now be instituted whilst they are so widely dispersed, to effect a material reduction on this item of the public expenditure.

There may be, probably, some delay in completing these arrangements, and I have, therefore, estimated for the charge at its present rate.

The "*Judicial and Law Establishment*" is a heavy charge upon the colony. The sum estimated for 1845, is £638 less than for 1844. It amounts to £25,475. 7. 0. being one-sixth of your whole expenditure. I am of opinion, that no species of economy is worse than that which, in any way, impairs the administration of public justice; but, on the other hand, I am of

Govt. Minute  
May 18, 1844

Finance.

opinion, that an expenditure which can be reduced without lessening the efficiency, value and usefulness of such institutions, ought certainly to be resorted to.

That such can be effected here, I am willing to hope, and, under that impression, it is my intention, shortly, to propose a committee of this council, (being the most competent authority,) to report to me on this subject, and I shall issue such instructions to that committee, for the prosecution of this enquiry, as will enable the government to determine, whether increased efficiency with a decreased expenditure may not be obtained, either by increasing the powers of the resident magistracy, by the formation of quarter or district sessions, or by some other desirable means. As soon as this information is before me, I shall, most probably, avail myself of the increased powers Her Majesty has lately conferred upon this council, and bring the subject under your attention for the purpose of legislating thereon. It is my intention, moreover, at the same time, to request the committee, to extend their inquiries to the means of facilitating the civil as well as the criminal legal business of the colony, and, also, to afford me their suggestions upon the expediency of appointing coroners invested with powers similar to those delegated to such functionaries in England.

The next head of expenditure is *Police, Prisoners, and Gaols.*

From the communications which have been made to me on this subject, I believe this branch of the public expenditure requires remodelling, at least that portion of it which relates to the country districts. To obtain classification and proper accommodation for the inmates of the gaols, some considerable expenditure will be required. The subject is now under my consideration, and, if I am permitted to meet you next year with the estimates for 1846, I shall hope to have visited most, if not all, of those buildings in the colony, when I shall be prepared with a definite plan for their improvement generally, and for carrying into effect a proper and uniform system of prison discipline.

You will perceive, that the police constables are not very numerous, perhaps not so much so as they ought to be for the wants of the districts; and, from the great variety of rates at which they are paid, there appears to be no fixed mode of remunerating their services.

It is in the contemplation of the government, to appoint constables to serve the warrants, writs, and summonses from the courts of the resident magistrates, and, also, to serve through the police, the subpoenas, summonses, &c., which are now served by the sheriff's department. To carry out this measure, and, at the same time, improve the police, it is contemplated attaching to each district a few mounted policemen, who could



also, be employed in delivering the Gazettes to the field-cornets, and, thereby, save a considerable outlay.

Govt. Minute  
May 18, 1844.

Finance.

If these arrangements should be put into execution, it will be necessary to remunerate the deputy sheriffs by fixed salaries; but, as the fees they and the messengers now receive for the services alluded to would then be paid into the treasury, it is imagined that the whole change can be carried out without putting the government to any greater expense than at present.

If, upon further investigation, I find that I can, by these means, make the police of the country districts more efficient, and provide constables for the new townships which are springing up in the interior, but which are now entirely destitute of that protection, it is my intention to make the experiment: for, besides the advantages which I have enumerated, it will, in two important departments, abolish the objectionable practice of remunerating public servants for their services by personal fees, the amount of which is unknown to the government, and often complained of by the public. The total amount for the "police, prisoners and gaols," is £14,225. 11. 3. being £372. 18. 9. less than in 1844, owing to the reduction of several constables, in consequence of the removal of the convicts to road stations.

For the *Road Department*, the amount proposed to you is £16,000 being £1,000 above the estimate of 1844, in consequence of there being 50 additional convicts to be provided for.

There is also an addition of £406 to the grant for making roads beyond the vote for 1844. You voted £6,594 in 1844, and I now propose to you £7,000 for 1845.

I am so impressed with the great importance of road making to this colony, and so approve of the system now in operation for accomplishing it, that, if you should be disposed to augment the grant from £16,000 to £20,000 for 1845, by appropriating a portion of your surplus revenue to the object, I will cheerfully accede to this addition.

There is a reduction of £1,450 for the maintenance of the convicts at the road stations, as compared with your estimate for this year, for the maintenance of a similar number in townships, in the manner they were formerly employed.

*Robben Island Penal Settlement* is now, for the first time, brought under your notice as a distinct establishment. Hitherto it has been considered and treated as a branch of the Cape Town police. A very improved system of convict discipline has, lately, been introduced into that Island, and is now vigorously, but judiciously, put in operation, under the superintendence of the commandant. The luxuries and privileges the convicts formerly enjoyed at that station, have all been abolished; the labour has been increased in degree and amount, and a system of order, submission and regularity has been established, all of which are essential to the due working of a proper system of convict

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May 18, 1844.

Finance.

discipline. Arrangements are making for accommodating a minister of religion, who will afford the convicts the opportunity of receiving both secular and religious instruction.

In the course of four or five months, I am in hopes, the buildings will be completed for the reception of the minister and opening the school. The estimate for Robben Island is £3,582. 7. 6; and the important changes to which I have alluded, will be accomplished by an increase of £270 to the expenditure of 1844.

Under the head of *Aboriginal Native Tribes*, you will perceive that I propose an expenditure of £225 for two chiefs, with whom my predecessor, lately, entered into treaties, the copies of which will be laid upon the table, and I feel no doubt of your ready acquiescence to provide the funds this government has thus stipulated to pay. There is, on the other hand, a decrease of £200 under the head of "rations," leaving, therefore, an increase of £5 only, as compared with 1844, the total amount being £3,251. 14.

Your next head of expenditure, namely *Pensions and Retired Allowances*, is one which occasions me much anxiety: and, unless measures are taken, in due time, to check its augmentation, it will, under the system which has prevailed so many years in this colony in granting these indulgences, entail a most serious annual burden upon the revenues at your disposal. It at present amounts to £12,003. 8. 2.

To lighten, in some degree, this increasing burden, it is my intention, shortly, to submit to you an ordinance, in which will be defined and limited the class of public servants who will, after the passing thereof, be eligible to receive pensions, &c.

In that ordinance I shall adopt the principles contained in the act of the imperial parliament 4th and 5th William IV. chap. 26. which regulates the pensions, compensations, &c. to persons who have held civil offices in her majesty's service in England.

I shall, also, propose a duty upon the salary of all persons appointed to the civil service of this government, after the passing of that ordinance, with the view to provide a pension fund, from which, in due time, that charge can be defrayed, without resorting to the colonial revenue. And I intend, also, to propose, that the government shall be empowered to reduce the present pension list in certain cases, by commuting the annual payment for a sum to be determined under proper and equitable arrangements.

The last head of expenditure is *Miscellaneous Services*. With respect to this, it is only necessary to notice, that there is an apparent increase from £230 in 1844, to £500 in 1845, for printing. This is occasioned by abolishing, from the 1st January next, the printing establishment, which, at present, costs £600 per annum, thereby effecting an actual decrease of £330

per annum. From that date all the printing required by this government will be performed by contract, for which tenders will be invited in a short time.

The revenue for 1845 is estimated at £172,257, and the expenditure at £151,248, leaving a surplus of £21,009 for you to appropriate.

I feel no doubt that the revenue is under-estimated, since it is nearly £700 below the amount realized in 1843.

I am anxious to leave to yourselves the appropriation of your surplus revenue, in order that you may, if you feel disposed, apply it to European immigration and public works, for both of which, you have, I believe, been long anxious.

My own impression is, that, under a judicious system of immigration, £10,000 would be well applied, and I would suggest, as already intimated, that £4,000 should be added to the grant for making roads, £1,500 for the erection of a new port office in Table bay, Cape Town, which is most urgently required, and £5,000, in aid, towards the erection of a light-house at Cape Agulhas; and I should hope, added to contributions from other quarters, that this last sum may be the means of causing this important building to be erected. The estimated expense for this work is £12,800, and a similar sum would be required for erecting a light-house on Cape Recife, which, if not of equal importance with the light on Cape Agulhas, is of very great importance, and will, I trust, receive from your revenues of 1846 a similar contribution.

I cannot avoid congratulating the council upon the measures which have been, so successfully, taken, for redeeming and cancelling the government promissory notes, without inconvenience, either to the public or to the government. Your debt, not long since, on this account, exceeded £200,000; it is now reduced to £10,000, of which £9,388 are, at this moment, in the treasury, and, as soon as they can be increased to £10,000, will be cancelled.

From the measures which the government has taken, during the last eight months, through all the civil commissioners, and, more recently, through the several branches of the commissariat department, for stopping the circulation of those notes, and causing them to be remitted to the treasurer-general at Cape Town for cancellation, I am of opinion, that it will be a very long time before the remainder of the notes are presented for payment. Indeed, it is the opinion of many well-informed persons upon the subject, that the greater part of them have been lost or destroyed.

I cannot close this minute without bringing under your consideration a public work of the very highest importance to the advancement and permanent interests of this colony. I allude to the erection of a breakwater in Table bay, in order to render



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May 18, 1844.

Finance.

your principal port a harbour of refuge, and a safe resort for shipping at all seasons of the year.

The important measure of road making, and the abolition of the port dues, can never produce the beneficial results they are susceptible of, without the co-operation of a breakwater.

I have endeavoured to obtain accurate information upon the practicability, the advantage and probable expense of such a work. Upon the two first points no doubt whatever exists, but upon the *third*, namely, the expense, no very accurate estimate can be formed until the plan and exact position of the work have been decided upon, and much more information, in detail, has been obtained. Upon a rough estimate, however, which has been submitted to me by the port captain of this port, I am assured that £200,000 would be ample. The work, I am informed, could only be constructed during certain seasons of the year, and could not be completed under seven years. It appears, moreover, that a larger sum than about £30,000 per annum could not be advantageously expended upon it. My object in now bringing this subject under your attention is, to announce to you that I am prepared to employ a board of competent persons to report to me upon it, and to submit the result of the surveys, plans and estimates, so obtained, to you, if you concur with me in the propriety of the work, and are prepared to guarantee, by an ordinance, some specific and sufficient portion of your revenues for the payment of the capital and interest of any money the government may obtain on loan to construct it.

I am disposed to think that her majesty's government would not object to our raising by loans, from year to year, during the progress of the work, whatever money might be required (not exceeding £200,000) beyond any available surplus revenue.

The time and mode of repayment must, of course, be determined. I am of opinion, that it would be desirable to register the loans in consecutive order,—that the interest should be paid half yearly,—and that twenty years should be fixed for the repayment of the loans, at which time they should be liquidated by instalments from the colonial revenue, at the rate of ten pounds per centum, per annum, unless the government should be enabled to pay off any portions of it sooner; in which event they should have that option, upon giving twelve months' notice of such intention.

The loans should be transferable, and should be paid off in the legal coin of the realm, or by bills on the lords commissioners of Her Majesty's treasury.

The details, however, of any plan we may hereafter adopt, can be more conveniently discussed after I am in possession of your views upon the suggestions I have now made for your consideration.

(Signed) P. Maitland, Governor.

No. 8, 1844.—(Signed) P. Maitland.

Ordinance  
No. 8, 1844.

*Ordinance. — For applying a sum not exceeding £172,179, 10, 3, for the service of the year 1845.*<sup>(1)</sup>

Estimates  
1845.

WHEREAS the expenditure required for the service of the government of this colony for the year 1845, has been estimated at the sum of one hundred and seventy-two thousand one hundred and seventy-nine pounds, ten shillings, and three pence :—

Be it therefore enacted, by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that a sum not exceeding one hundred and seventy-two thousand, one hundred and seventy-nine pounds, ten shillings, and three pence, be charged upon the revenue of the said colony, for the service of the year 1845, and applied in the manner following, that is to say :—

*For the expenditure of the Civil Establishment*,—a sum not exceeding forty-eight thousand five hundred and seventy-one pounds, thirteen shillings and one penny, in the manner set forth in the schedule hereunto annexed, marked No. 1.

*For the expenditure of the Ecclesiastical and School Establishments*.—a sum not exceeding seventeen thousand one hundred and seventy-three pounds, fourteen shillings, and six pence, in the manner set forth in the schedule hereunto annexed, marked No. 2.

*For the expenditure of the Medical Establishment*,—a sum not exceeding seven thousand one hundred and twenty-three pounds, sixteen shillings and ninepence, in the manner set forth in the schedule hereunto annexed, marked No. 3.

*For the expenditure of the Judicial and Law Establishment*,—a sum not exceeding twenty-five thousand, four hundred and seventy-five pounds, and seven shillings, in the manner set forth in the schedule hereunto annexed, marked No. 4.

*For the expenditure on account of Police, Prisoners and Gaols*,—a sum not exceeding fourteen thousand, two hundred and twenty-five pounds, eleven shillings and three pence, in the manner set forth in the schedule hereunto annexed, marked No. 5.

*For the expenditure of the Road Department*,—a sum not exceeding twenty thousand pounds, in the manner set forth in the schedule hereunto annexed, marked No. 6.

*For the expenditure of the Robben Island Penal Settlement*,—a sum not exceeding three thousand, six hundred and fifty-four pounds, seven shillings and six pence, in the manner set forth in the schedule hereunto annexed, marked No. 7.

<sup>(1)</sup> The sums allowed for former years were for

1836, £ 40,590 1 8½ ; 1837, £128,628 15 5½ ; 1838, £144,038 7 2 ;  
1839, £151,405 6 1 ; 1840, £156,174 12 11 ; 1841, £157,944 8 6 ;  
1842, £155,879 6 7 ; 1843, £155,199 7 0 ; 1844, £161,039 19 5.

Ordinance  
No. 8, 1844.

*For the expenditure on account of Aboriginal Native Tribes,*—a sum not exceeding three thousand, two hundred and fifty-one pounds and fourteen shillings, in the manner set forth in the schedule hereunto annexed, marked No. 8.

*For the expenditure on account of Pensions and Retired Allowances,*—a sum not exceeding twelve thousand and forty-nine pounds, eight shillings and two pence, in the manner set forth in the schedule hereunto annexed, marked No. 9.

*For the expenditure on account of Miscellaneous Services,*—a sum not exceeding ten thousand, six hundred and fifty-three pounds, and eighteen shillings, in the manner set forth in the schedule hereunto annexed, marked No. 10.

*To provide for Immigration to this colony from the United Kingdom,*—a sum not exceeding ten thousand pounds. \*

*God save the Queen !*

Given at the Cape of Good Hope, this 27th day of June 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig.  
Acting Clerk to the Legislative Council.

Government  
Minute,  
June 22, 1844.

THE subjoined minute by His Excellency the Governor, on immigration, was this day read and laid upon the table, and directed to be published for general information.

Immigration:

Chamber of the Legislative Council, 22nd June 1844.

(Signed)

J. Moore Graig,  
Acting Clerk to the Legislative Council.

### *Minute.—Immigration. (1)*

Honorable Gentlemen,

I lately suggested to you to apply a portion of the surplus revenue, which appears in the estimate before you to immigration, and which I am of opinion should be from the United Kingdom, I believe we all agree in the importance of this object. I am, therefore, desirous of submitting for your consideration the views of my government upon it, that I may obtain your advice and assistance in concerting a scheme of immigration, calculated to develop the resources of this colony, without hazarding any serious derangement in its social relations.

\* For the schedules annexed to this ordinance,—see Government Gazette July 5, 1844.

(1) See the regulations for immigration, *infra*, dated 10th July 1844.



2. I am of opinion, that care should be taken in directing immigration to this colony, that the number of immigrants arriving at one time do not exceed the means of immediate employment on fair terms, in the various branches of labour and skill to which they have been trained. I am also of opinion, that, unless the condition of the immigrant be improved in the same ratio that his employer is benefited by his labour, the system will be defective, and I am further of opinion, that unless we import both character and intelligence with the labour, the advantages realized will not be commensurate with the expenses incurred.

3. The system adopted in the eastern colonies, of importing immigrants in large numbers, in vessels taken up by the government expressly for the purpose, appears to me wholly inapplicable to this colony. The principles on which I have proposed, in the second paragraph of this minute, to base the scheme of immigration, are not so likely to be realized by the government becoming the importer, as by its affording, under regulations to prevent abuse, pecuniary aid, to the employer in procuring the particular description and exact amount of labour he may require. I propose, therefore, that the government should give notice of its readiness to pay a bounty on the importation of immigrants, on a graduated scale, corresponding to the several classes of labourers to which I shall presently allude, provided the importer conform to the regulations under which such bounties will be granted.

4. By these regulations it should be provided, that when an application is made to government for a bounty order on the importation of immigrants, to be employed on their arrival by the applicant, a distinct and explicit statement should be given of the number and description of immigrants required; the rate of money wages at which he engages to pay them on their arrival; the time he will undertake to employ them at that rate; and the port of the colony at which he proposes to disembark them. The applicant should be allowed nine months from the date of the bounty order, to import the immigrants of that description, and on those terms of which the government had approved. At the expiration of that period the order should become void.

5. On the arrival of the immigrants, the importer should be required to prove, to the satisfaction of the government, that they correspond to the description of persons stated in the application on which the order was issued; and to enter into a contract with each, to secure to him the wages and the term of employment which had been stipulated. In no case should the term of employment be less than twelve months from the date of the immigrant's arrival in the colony, but, of course, it might extend to any longer period, for which the contracting parties mutually agreed.

Government  
Minute,  
June 22, 1844.  
Immigration.

6. If between the date of a bounty order and the arrival of the immigrants specified in the application on which it was obtained, circumstances should have arisen to render the rate of wages inserted in the application, considerably below the average market rate at the time of arrival, the contract, on such terms, would, evidently, be unequal. To remedy this, the government should reserve to itself the power to raise the wages to their fair average, before the contract is signed, and, should the importer refuse to enter into contract at the new rate, he should be released from his engagement, but the bounty should, nevertheless, be paid to him, provided that, in all other respects, he had conformed to the government regulations. In cases of this kind, which are not expected to be of frequent occurrence, the government will have no difficulty in finding immediate employment, at the public works for the immigrants, at the wages proposed, until they shall have succeeded in finding for themselves more eligible employment.

7. To ensure, as far as practicable, the beneficial application of your funds to the importation of superior and intelligent immigrants, I propose to establish three rates of bounty, corresponding in amount to the qualifications of the three following classes of immigrants:—

For the *first class*, which should consist of superior or first rate farm servants, farm overseers, shepherds, mechanics, domestic servants, and master workmen of every trade, (between the ages of 25 and 45,) I propose to allow a bounty of £15 for every single male or female, and £22 10s. for a married couple, with an additional allowance of £5, for each of their children, (not exceeding three in number,) above the age of 10 years.

For the *second class*, which should consist of ordinary, or second rate, persons of the same trades and occupations as are enumerated in the first class, I propose for each single male or female, between the ages of 18 and 40, a bounty of £12, and for a married couple, one of £18, with an additional allowance of £4, for each child of their family, (not exceeding three in number,) above the age of 10 years.

For the *third class*, which should consist of labourers only, and between the ages of 18 and 40, I propose a bounty of £10 for every single male or female, and of £15 for a married couple, with an allowance of £3 for each of their children, (not exceeding three in number,) above the age of 10 years.

All ages should be computed from the date of embarkation, under the usual proof, and no bounty should be paid for emigrants who may die on the passage.

8. The bounty should not be paid to any but able bodied immigrants, and proof should be afforded to the government, that they were in good health at the time of embarkation; and the holder of a bounty order should also be prepared with proof, that the moral character of the immigrant, for whom the

bounty is claimed, is good, more especially as it regards industry and sobriety; that he is acquainted with the common branches of education; and that he is entitled to be placed in the class to which the bounty claimed is attached.

Government  
Minute,  
June 22, 1844  
Immigration.

9. And as the object of the government, in affording the aid I have proposed, is to procure the introduction of those immigrants into the colony who will go into service, it should be distinctly declared, that applicants using any deception to avail themselves of this means to bring out relatives who would not take service, or any other deception by which the obvious intention of the government would be frustrated, will forfeit all claim to the bounty, on any order they may have received.

10. To prevent the extent of immigration exceeding at any time that of demand, and to ensure the healthy incorporation of the immigrants into the community, as they periodically arrive, I propose that the bounty orders for any one month should be limited to one hundred persons, including men, women, and children, who, of course, would arrive here as private passengers in the ordinary trading vessels,

11. In regard to the issue of bounty orders to applicants throughout the colony, I am of opinion that they ought to be apportioned, as nearly as can be, to the several divisions, in proportion to their respective amounts of population.

Government House, Cape Town, 22d June, 1844.

(Signed) P. Maitland, Governor.

### *Government Notice.*

NOTICE is hereby given to all claimants for title deeds to the subdivisions of the locations of British settlers of 1820 in Albany and at Glen Lynden, that in all cases in which it is found practicable to issue such title deeds, the arrear quitrents, stamps, and transfer dues on the land will be remitted, and the new title deed will be issued without expence; provided, the claimants, on their part, relieve the government from the collection of such small amounts of quitrents as are chargeable on such subdivisions by redeeming the said quitrents, on the usual terms, before issue of such title deeds; and provided, the said claimants exert themselves in the investigation of their own claims, by punctual attendance at inspections, and in such other manner as may be directed by the inspecting officer.

Govt. Notice,  
July 4, 1844.  
Title Deeds.

His excellency the governor is prepared to accede to every recommendation of remission and issue of free title deed, which may be made by Charles Bell, Esq., the second assistant surveyor general, to whom the duty of making such investigations, and holding such inspections, will be entrusted.

Colonial Office, Cape of Good Hope, 4th July 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.



Ordinance  
No. 9, 1844.

No. 9, 1844.— (Signed) P. Maitland.

Land Rents.

*Ordinance.—For Facilitating the Recovery of Land Rents in this Colony.*

*Preamble.—Existing laws repealed.*

WHEREAS it is expedient to facilitate the recovery of land rents belonging to the colonial government, due and in arrear, and, for that purpose, to remove certain difficulties of a legal nature which now exist, and, generally, to make such provision for the recovery of the said rents as may prove effectual, and, at the same time, free, as far as may be, from delay and expense : Be it therefore enacted by the governor of the Cape of Good Hope, by and with the consent of the legislative council thereof, that, from and after the promulgation of this ordinance, all laws and customs heretofore in force in this colony, in so far as the same are repugnant to, or inconsistent with, any of the provisions of this ordinance, shall be, and the same are hereby, repealed.

*Notice of land rent due and in arrear to be prepared and served.*

2. And be it enacted, that it shall and may be lawful for the civil commissioner of each division of this colony, in every case in which any land rent, payable or belonging to the colonial government, shall, by the books of such civil commissioner's office, appear to be due and in arrear, to prepare, or cause to be prepared, notice addressed to the person who shall, by the books aforesaid, appear to be the owner of the place or property, in respect of which such land rent shall have accrued due, and to all others whom it may concern ; and such notice shall, in substance, be in the form as in the first schedule hereunto annexed is set forth ; and such notice shall be served by leaving the same with the person in actual occupation of the said place or property, or, in case such person cannot be found at his usual place of residence, then, by leaving the same at the residence of such person with the wife of such person, or any child or servant of such person who shall appear to be of the age of sixteen years, or upwards. And it shall be the duty of the person employed to serve any such notice, to have and preserve a copy thereof, and to mark upon such copy, as speedily as may be, the time at which, and the place and manner in which the original notice was served, by way of a memorandum, to refresh, if needful, the memory of the person so serving the said notice.

*Owner or other persons interested in the property to lodge objections within 31 days.—If objections lodged and disallowed, but security for costs of suit, &c. given, recovery of debt to be by action.*

3. And be it enacted, that it shall and may be lawful for the person so appearing, as aforesaid, to be the owner of such place or property, or for any mortgagee, lessee, or other person having any interest therein, at any time within thirty-one days

from the day of the service of such notice as aforesaid, to lodge at the office of the civil commissioner, in writing, any objections to the payment of any part of the amount claimed in the said notice as due and in arrear, which may be disputed or denied, and, if such objections shall be duly lodged within the time aforesaid, but shall not be allowed by such civil commissioner, and if the party lodging the same shall, within seven days after the lodging thereof, give security, by way of recognizance, to Her Majesty the Queen, and either with or without sureties, as the said civil commissioner shall require, to pay the amount which such party disputes or denies, together with the costs of the suit next hereinafter mentioned, in case such suit shall be determined against the party so objecting as aforesaid and giving such security, the said civil commissioner shall forthwith cause proceedings to be commenced in some competent court, for the recovery of the amount of rent in controversy, and shall not resort to the remedy by distress and sale, as in the next succeeding section mentioned.

*If no objections lodged, or if lodged and disallowed no security is given, distress and sale to be resorted to*

4. And be it enacted, that in case no such objections as aforesaid shall have been lodged, or if lodged and disallowed, in case no such security as aforesaid shall have been given, and in case the amount of the land rent mentioned in such notice as aforesaid shall not, within the space of thirty-one days from the day on which notice shall have been served, be duly paid and discharged, or in case such objections as aforesaid, shall have been lodged and allowed, but the residue or balance remaining after the allowance of the same, shall not be paid and discharged within the said space of thirty-one days from the day of the serving of the notice, then it shall and may be lawful for the civil commissioner aforesaid, in every case in which the person appearing as aforesaid, by the books aforesaid, to be the owner of the place or property in question, shall be in the actual occupation of such place or property, to place in the hands of the messenger of any resident magistrate's court, within that civil commissioner's division, an authority in writing, empowering such messenger to seize and arrest all goods and chattels, being in and upon the place or property aforesaid, which goods and chattels would be distrainable by law for rent in arrear, and such authority shall, in substance, be in the form set forth in the second schedule hereunto annexed; and all goods and chattels so seized under or by virtue of any such authority as aforesaid, shall be dealt with, treated and considered, to all intents and purposes, as if the same had been attached under process of execution, issued upon a judgment of the court of the resident magistrate of the district in which such seizure shall have been made, but no greater sum shall, in any case, be levied and raised than the

sum mentioned in the said authority, together with such usual costs and charges as would have been attendant upon the seizure and sale of the said goods and chattels, had the same been attached under such process as aforesaid.

*Power of distress and sale to be exercised if person in occupation be owner, or under contract to become owner.*

5. And be it enacted, that in every case in which the person in actual occupation of any such place or property as aforesaid not being the owner thereof, shall yet have entered into such occupation, under or in pursuance of some contract or agreement for becoming the owner of the same, the power of distress and sale, in the last preceding section mentioned, may be exercised by the civil commissioner aforesaid, in manner and form as in the said section stated, precisely as if the person so in occupation, under such contract or agreement, were in law the owner.

*Where owner, or person under contract to become owner, is not in actual occupation, recovery of arrears of rent to be by action.*

6. And be it enacted, that in all cases in which neither the person appearing as aforesaid, by the books aforesaid, to be the owner of the place or property in question, nor any such occupant as in the last preceding section mentioned, shall be in the actual occupation of such place or property, or in which, although in such occupation, no sufficient goods and chattels shall appear to exist, whereof could be made, in manner aforesaid, the rent due and in arrear; or in which, by reason of any difficulties to him appearing, such civil commissioner as aforesaid shall decline to resort to the mode of proceeding in the last preceding section mentioned, it shall and may be lawful for such civil commissioner, at any time after the expiration of thirty-one days from the day on which such notice as aforesaid shall have been duly served, but not sooner, in case the rent in arrear shall still remain due and unpaid, to proceed according to law, in some competent court, for the recovery of the land rent due and in arrear, or for such other and alternative relief, as by reason of the non-payment of the said rent, the colonial government shall be legally entitled to demand.

*Mortgagee, or other person interested may relieve the property.*

7. And be it enacted, that any mortgagee, sub-lessee, or other person having any interest in any such place or property as aforesaid, shall be entitled, at any time before the execution of the decree of any such court as aforesaid, to pay and satisfy the amount of land rent in arrear, with costs, and thereupon to be deemed and taken, in case he shall not, by reason of some stipulation or agreement, be himself responsible for the said rent, to have, in regard to the amount so paid and satisfied, the like rights and remedies against the real debtor, as those



which do or shall by law belong to the colonial government, in regard to the recovery of its land rents and its costs of suit.

Ordinance  
No. 9, 1844.

Land Rents.

*After decree, property to be sold and balance of proceeds, if any, paid to the party entitled thereto.*

8. And be it enacted, that if in any such suit or proceeding as aforesaid, a decree should be pronounced, declaring the quitrent grant, or lease of any such place or property, and the right or title derived from, by, or under it, to be cancelled, annulled, forfeited, and avoided, for or by reason of non-payment of the rent reserved and conditioned to be paid, then, in case the place or property in question shall, at the time of the pronouncing of such decree, be under any mortgage, either conventional or tacit, (the hypothecation of government for the rent due and in arrear alone excepted,) the civil commissioner shall, instead of entering upon or taking possession of such place or property under such decree, be bound and obliged to cause the said place or property, and all right and title to, and interest in the same, existing by virtue of the quitrent grant or lease thereof, to be sold by public sale, (in case no mortgagee or other interested person shall, previously to such sale, pay off the land rent due and in arrear, with all costs and charges,) and such civil commissioner shall, after deducting from the purchase money the amount of rent due and in arrear, together with costs and charges of the said sale, pay over the surplus, if any, to the party or parties legally entitled to the same.

*Sale to be held by the sheriff.*

9. And be it enacted, that every such sale as is in the last preceding section mentioned, shall be held by the sheriff, and shall be conducted in like manner as sales of immoveable property seized or attached by such sheriff in execution of legal process.

*If mortgagee absent from the colony, monies due to him to be paid to guardian's fund.*

10. And be it enacted, that whenever any such mortgagee as aforesaid shall be absent from the colony, or shall not be discoverable, the civil commissioner shall cause all such monies, as would be payable to such mortgagee if present, to be paid into the guardian's fund, to the credit of such mortgagee, there to be subject to the same provisions, in all respects, which are provided by ordinance No. 105, bearing date the 5th day of July, 1833, in regard to monies placed in the said fund, belonging to persons absent from the colony.

*Form of procedure where property is abandoned.*

11. And be it enacted, that in every case in which any place or property, in regard to which any arrear of land rent shall be due to the colonial government, shall be abandoned, deserted, or left derelict, and the person, having or claiming title to the

same shall, after being duly summoned, make default, it shall and may be lawful for the supreme or some circuit court, as the case may be, upon proof to the satisfaction of the said court, by affidavit or otherwise, as to such court shall seem fit, that a certain amount of land rent is due and in arrear, in respect of the said place or property, and that such place or property has been, and is abandoned, deserted, or left derelict, to decree, in a summary manner, that the right, title, and interest of the grantee or lessee of the said place or property, and that of all other persons claiming by, through, or under him, shall thenceforth be, to all intents and purposes, cancelled, annulled, forfeited, and avoided, and to adjudge and decree the said place or property to have reverted to the colonial government, wholly free and unencumbered, and in the same plight and condition, as if the particular title, under and by virtue of which such place or property was previously held, had never been created: And as often as any such decree as last aforesaid shall be pronounced, the civil commissioner shall take possession, on behalf of the colonial government, of the place or property in question, and the said government shall be at liberty to dispose of the same in whatever manner it shall seem fit. Provided always, that nothing in this section contained, shall be taken or construed so as to prevent the colonial government from claiming from any competent court, a like decree of forfeiture of title for non-payment of rent in any case in which, by law, the said government shall be entitled to claim the same: And provided, also, that if in any case the place or property so abandoned or deserted, shall be under mortgage at the time of any such decree as aforesaid, then the provisions in the 8th, 9th, and 10th sections of this ordinance contained, shall be deemed and taken to apply to the same, as fully as if the said sections were each of them herein again repeated.

*Production of original title deed not necessary in action for recovery of rent.—Entry in books of civil commissioner sufficient evidence.—Defendant may produce title.*

12. And be it enacted, that for the hearing and determining in any of the courts of this colony, (except the supreme court and the court of the resident magistrate of Cape Town,) of any suit, action, or proceeding for the recovery of land-rent, or for any other purpose relating to this ordinance, it shall not be necessary for the civil commissioner to produce the original title-deed of any such place or property as aforesaid, or any duplicate thereof, or any deed of transfer relating to such place or property; but, on the contrary, the entry or entries in the books of the civil commissioner, purporting to contain the leading heads of the grant or lease, or other instrument of title of such place or property, shall, *prima facie*, be deemed and taken to be admissible and sufficient evidence to prove the amount of the rent reserved, and all other matters contained in such entry or entries of which

the original grant or lease, or other instrument of title, might, but for the present section, be in law the best evidence. Provided always, that it shall be competent for any person defending any such action as aforesaid, to produce and prove any such grant or lease, or other instrument as aforesaid, and thereupon such deed, so produced and proved, shall, in case of any discrepancy between the said entries and said deed, be deemed and taken to be the best evidence of every matter and thing in the said deed contained.

Ordinance  
No. 9, 1844.  
Land Rents.

*Definition of terms employed in this ordinance.*

13. And be it enacted, that in the interpretation of this ordinance, the term "civil commissioner" shall mean the officer for the time being acting as such; and that the terms "colonial government" and "government" shall mean respectively Her Majesty's local executive government within this colony; and that the term "land-rents due and in arrear" shall extend to and comprise quit-rents, loan-rents, and all other sorts of periodical payments to the colonial government, arising out of lands, and due and in arrear, as also the amount which would have been paid for stamped receipts, had the said rents, instead of being allowed to fall into arrear, been regularly paid, and stamped receipts, as by law required, been regularly given for the same; and that the term "owner" shall mean the person in whom, whether in his individual or in some fiduciary capacity, the complete dominium, or legal right, in any place or property, held by any quit-rent grant, or lease, or other title, from and under the colonial government, shall, for the time being, be vested; and that the singular number shall include the plural number; and that the masculine gender shall include females as well as males.

*Schedule No. 1.*

To A. B., and all others whom it may concern.

Notice is hereby given, that the sum of £ , being the amount of        years quit-rent, (or other rent, as the case may be,) up to the        day of        , in the year of our Lord        , is now due and owing to government upon the place        (here describe the farm or other property according to its title or other description,) and that unless the said sum of £        shall be paid to the undersigned within thirty-one days from the day of the service of this notice, then such proceedings will be had and taken in regard to the said arrear, as are by law, and especially by the ordinance No. 9, 1844, intituled "an ordinance for facilitating the recovery of land-rents in this colony," authorized and enjoined.

Dated this        day of        , in the year of our Lord

civil commissioner for the division of



Ordinance  
No. 9, 1844.

Land Rents.

*Schedule No. 2.*

To \_\_\_\_\_, messenger of the court of the resident magistrate of \_\_\_\_\_

You are hereby authorized and required, in pursuance of the provisions of the ordinance No. 9, 1844, intituled "an ordinance for facilitating the recovery of land-rents in this colony," to repair to the place \_\_\_\_\_ (here describe the farm or other property, according to its title or other description,) whereof \_\_\_\_\_ is the owner and occupier, (or, whereof \_\_\_\_\_ is in possession, under a contract, for the purchase thereof,) and there to seize and arrest such goods and chattels, being in and upon the said place, as by virtue of the 4th section of the ordinance aforesaid, may lawfully be seized and arrested, and whereof can be levied and made the sum of £ \_\_\_\_\_, being the amount of quit-rent (or other rent, as the case may be,) due upon the said place \_\_\_\_\_, up to the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_; and for seizing and arresting the said goods and chattels, and levying thereout the said sum of £ \_\_\_\_\_, in manner and form as by the said ordinance is provided, this shall be your warrant and authority.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_

\_\_\_\_\_ civil commissioner for the division of \_\_\_\_\_

*God save the Queen!*

Given at the Cape of Good Hope, this 4th day of July, 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,

Acting Clerk to the Legislative Council.

No. 10, 1844.—(Signed) P. Maitland.

*Ordinance.—For empowering the Governor to appoint in all cases the places at which Convicts sentenced to be imprisoned shall be confined.*

*Preamble.—Place of imprisonment dependent upon the appointment of Governor.*

Ordinance  
No. 10, 1844.

Convicts'  
places of  
confinement.

WHEREAS in some cases convicts have, from time to time, been sentenced to undergo at Robben Island, or some other particular place, fixed in and by their several sentences, the certain terms of imprisonment, with hard labour, respectively adjudged against them, without any power having been given

by the terms of such sentences to the governor of this colony to vary the place of such imprisonment: And whereas it may happen that other convicts may hereafter be sentenced in a similar manner: And whereas it will be conducive to the proper management of convict discipline and labour, that the said governor should possess a discretionary power of altering, from time to time, the places at which all convicts sentenced to undergo imprisonment, with hard labour, by any of the colonial courts, shall be confined; and to that end, that provision should be made for effectually realizing the removal, if the said governor should see fit, of all convicts sentenced, or to be sentenced, as aforesaid, absolutely to Robben Island, or some other fixed place: Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that, as well in regard to the power of the governor of this colony for the time being, to remove or cause to be removed from Robben Island, or other places of imprisonment within this colony, all convicts sentenced to undergo imprisonment with hard labour, by any of the colonial courts, as in regard to all other legal effects and consequences whatsoever,—all former sentences still unexpired, and all future sentences pronounced by any colonial court for any crime or offence, adjudging imprisonment with hard labour against the person convicted, shall be held, taken, and construed precisely, and to all intents and purposes, as if fit and proper words had been originally inserted therein, declaring that the place for undergoing such imprisonment with hard labour, should be, from time to time, and at all times, dependent upon the appointment of the said governor.<sup>(1)</sup>

Ordinance  
No. 10, 1844.

Convicts'  
places of  
confinement.

*God save the Queen.*

Given at the Cape of Good Hope, this 4th day of July 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,

Acting Clerk of the Legislative Council.

No. 11, 1844.—(Signed) P. Maitland.

*Ordinance.—To enable the Cape of Good Hope Trust and Assurance Company to be appointed by that name as Trustees and Tutors, and to sue and be sued in the name of their Secretary.*

*Preamble.—Style and title of the company.*

WHEREAS certain persons have become co-partners together in a certain Joint Stock Company, called, "The Cape of Good Hope Trust and Assurance Company," for the insurance of

Ordinance  
No. 11, 1844.

Trust and  
Assurance  
Company.

<sup>(1)</sup> See Ordinance, No. 7. 1844, *supra* p. 547.

Ordinance  
No. 11, 1844.

Trust and  
Assurance  
Company.

moveable and immoveable property of every description against loss by fire, insurance upon lives and survivorships, the purchase and sale of immediate, contingent, and deferred annuities, and the endowment of widows and children, the purchase and sale of reversionary property, the administration and management of such estates and other property as the said company shall be duly appointed to administer or manage as executors, tutors, guardians, curators, administrators, trustees, assignees, or agents, either under and by virtue of a decree of any competent court, or by the master of the supreme court of this colony, in his official capacity, or by the last will and testament, or other valid deed or act of any person or persons, or by virtue of any marriage settlement, power of attorney, or otherwise :

And whereas the said persons have subscribed amongst themselves, by shares, a certain capital stock of twenty-two thousand five hundred pounds, and have further engaged that one fifth of the annual profit shall be added thereto, until the capital stock of the said company shall amount to the sum of fifty thousand pounds, to serve as a fund for securing the payment of any demand which any person may hereafter have upon the said company :

And whereas it is expedient that the persons aforesaid, so constituting the co-partnership aforesaid should be declared capable of being appointed trustees for the administration of insolvent and other estates, and tutors dative and testamentary of minors, in their collective capacity, and by the style and title of their said co-partnership, and should also be enabled to sue and be sued in the name of their secretary :

And whereas the said persons have applied for an ordinance in order to effect the said purposes last mentioned :

And whereas it is expedient that such application should be granted, and, at the same time, that due provision should be made for facilitating the recovery of all debts and demands to which the said co-partnership may become liable : Be it therefore enacted by the governor of the colony of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that the name, style, and title of the said company or co-partnership shall be and remain "The Cape of Good Hope Trust and Assurance Company."

*Secretary to lodge, with registrar of deeds, a return of the names and places of abode of the members, and of the name of the secretary.—Similar return to be lodged annually.*

2. And be it enacted, that the secretary of the said company shall, within fourteen days next after the promulgation of this ordinance by the said governor, deliver to, and deposit with, the registrar of deeds in this colony, who is hereby required to receive and preserve the same, a list or return, showing the names and places of abode of all the members of such company, as the same respectively appear upon the books of the said



company, and also, the name in full of the said secretary, which list or return shall be verified, on oath, by the said secretary, (which oath may be taken before any justice of the peace, who is hereby authorized and empowered to administer the same.) And a similar return shall be deposited with the said registrar of deeds between the first and thirty-first of January in every succeeding year, while the ordinance shall remain in force.

*Return to be lodged from time to time of persons ceasing to be members, and of new members.*

3. And be it enacted, that besides the said general or annual returns, a further return shall, from time to time, be delivered and deposited as aforesaid, containing the name of any person who may have ceased to be a member; and also the name of any person who may have become a member of the said company, either in addition to, or in the place of, any former member thereof; and also the name, in full, of any person who shall be nominated and appointed to be secretary of the said company, in the room and stead of any former secretary; which occasional returns shall be verified as herein before directed, with respect to the general return beforementioned.

*Penalty for neglecting to furnish the same.*

4. And be it enacted, that in case such general return shall not be deposited as aforesaid, within the time in that behalf before mentioned, or in case no such occasional return shall be so deposited within one month from the day on which the matter or thing, which should have been made the subject of such return, shall have taken place, or in case of any such return, whether general or occasional, shall not in substance truly set forth the several matters required by this ordinance, the said company shall, for every such neglect, omission, or error, forfeit the sum of fifty pounds to be recovered by any person to his own use, who shall sue for the same, in any action or suit to be brought in the supreme court of this colony, which suit or action shall, however, be brought within twelve months after the cause of action shall have accrued, and not after.

*Certificate of registrar of deeds, prima facie evidence of appointment and authority of secretary, and of the names of the members.*

5. And be it enacted, that a certificate under the hand of the said registrar of deeds, setting forth the name of the person returned as secretary of the said company, and the names of the persons who, according to such general or occasional returns as aforesaid, are found to be members of the said company at the time of granting such certificate, shall, in all proceedings, civil or criminal, and in all cases whatsoever, be *prima facie* evidence of the appointment and authority of the person named therein as secretary, and also of the fact that all persons named therein as members, were members of the said company at the

Ordinance  
No. 11, 1844.

Trust and  
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date of such certificate, that they continue so to be. And such certificate shall be received in evidence, upon proof of the handwriting of the said registrar of deeds, without proof of his appointment; and such registrar of deeds shall make out and deliver such certificate to any person requiring the same, on payment of ten shillings.

*Lawful for the company to be elected trustees, or tutors dative or testamentary.*

6. And be it enacted, that it shall be lawful for the said company, in their collective capacity, and by the name aforesaid, to be elected and appointed trustees of any insolvent or other estate, or tutors dative or testamentary of any minor.

*Company to sue and be sued in the name of their secretary.*

7. And be it enacted, that all actions and suits at law, on behalf of the said company, whether in its private or any of the fiduciary capacities aforesaid, and all proceedings connected with the insolvency of debtors to the said company, shall be commenced and carried on in the name of the secretary to the company for the time being, as the nominal plaintiff or petitioner, on behalf of the said company. And that all actions and suits at law against the said company, in any of the said capacities, shall be commenced and carried on against the said secretary for the time being, as the nominal defendant on behalf of the said company. Provided also, that no such proceeding as aforesaid, shall abate or be prejudiced by the death, resignation, or removal of such secretary, but in any such event, the name of the person next nominated and appointed to be such secretary, shall be substituted in the subsequent proceedings.

*Judgment against secretary binding on the company.—Leave of Court to be obtained before execution is sued out against a member.*

8. And be it enacted, that every judgment which, after the passing of this ordinance, shall be recovered against any secretary of the said company as nominal defendant, shall have the like effect upon the capital stock and property of the said company, and the same effect, if any, upon the property of every member of the said company, as if the said judgment had been obtained against all the persons composing the said company, and execution may be issued thereon accordingly: Provided, that no such execution shall be sued out against any such member, until the leave of the court, where such judgment shall be recovered, shall be previously obtained, upon motion to be made for that purpose

*Persons against whom execution is issued, to be reimbursed out of the company's funds.*

9. And be it enacted, that every person, whether as secretary of the said company or as a member thereof, against whom

any execution may have issued, shall be reimbursed for any loss incurred thereby, out of the funds of the said company, or on failure thereof, by contribution from the members constituting the same; such loss shall include all damages, costs and expenses whatsoever.

Ordinance  
No. 11, 1844.

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Assurance  
Company.

*Secretary a competent witness in actions on behalf of or against the company.*

10. And be it enacted, that the secretary for the time being of the said company, shall not be deemed and taken to be an incompetent witness in any action or suit on behalf of, or against, the said company, merely by reason that the said secretary is such nominal party as aforesaid in such action or suit.

*Proceedings of a criminal nature may be conducted in the name of the secretary.*

11. And be it enacted, that in all proceedings of a criminal nature, it shall be sufficient in any indictment or information in any court in this colony, if the proceedings be for stealing or embezzling the property of the said company, to state such property to be the property of the secretary for the time being; and if the proceedings be for fraud, forgery, or other offence committed against, or with intent to injure or defraud such company, to state that the offence has been committed against, or with intent to injure or defraud, such secretary as aforesaid.

*Company not incorporated.*

12. And be it enacted, that nothing herein contained shall be deemed or taken to extend to incorporate the said company, or to relieve or discharge the said company, or any of the members thereof, from any duty or responsibility by law imposed upon them or him, or to alter or affect the legal consequences of any contract or obligation whatsoever, between the said company and any person or persons whomsoever, except so far as the same are affected by the provisions of this ordinance, and the true intent and meaning of the same.

*Duration of ordinance.*

13. And be it enacted, that this ordinance shall remain in force until the 31st day of December, in the year of our Lord one thousand eight hundred and sixty, and no longer.

*God save the Queen!*

Given at the Cape of Good Hope, this 4th day of July 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed) J. Moore Craig,

Acting Clerk of the Legislative Council.



*Government Notice.*

Govt. Notice.  
July 10, 1844.

Immigration  
Regulations.

HIS Excellency the governor has directed the publication of the following regulations for general information. All communications respecting immigration are to be addressed to this office.

Colonial Office, Cape of Good Hope, 10th July 1844.

By His Excellency's Command,

(Signed)

John Montagu,  
Secretary to Government.

*Regulations*

*For the Immigration of Mechanics, Farm Servants, Labourers and others, on Bounties payable by the Colonial Government of the Cape of Good Hope.*

1. Applications from Masters resident in the colony, for the importation from the United Kingdom, under bounty, of Immigrants of the above description will be received by the government from this date, and bounty orders will be issued monthly for any number of Immigrants not exceeding one hundred;—men, women, and children above 10 years of age inclusive.

2. The bounty orders will be issued on the following scale :—

In the *first class*, which will consist of superior or first rate farm overseers, farm servants, shepherds, mechanics, domestic servants and master workmen of every trade, being between the ages of 25 and 45, a bounty of £ 15 will be given for every single male or female, and £ 22 10 for every married couple, with an additional allowance of £ 5 for each of their children, (not exceeding three in number) above the age of 10 years.

In the *second class*, which will consist of persons between the ages of 18 and 40, and following the same trades or occupations as those of the first class, but not entitled to be ranked therein, a bounty of £ 12 will be given for every single male or female, and £ 18 for every married couple, with an additional allowance of £ 4 for each of their children, (not exceeding three in number) above the age of 10 years.

In the *third class*, which will consist of labourers only, and between the ages of 18 and 40, a bounty will be given of £ 10 for every single labourer, and £ 15 for every married couple, with an additional allowance of £ 3 for each of their children, (not exceeding three in number) above the age of 10 years.

3. No bounty order shall have effect before the expiration of the fifth month from the date of its issue, nor after the ninth. Neither can any order be transferred that is made payable to any other than the party in whose favour it was issued.

4. On the arrival of Immigrants, under bounty, the holder of the bounty order will be required to lodge with the government :—

1. Certificates of baptism and marriage, in all cases necessary to claim bounty for adults or allowance for children above 10 years of age.

2. Certificates of character from the clergyman or minister with whose congregation they have been connected, or to whom they have been personally known for at least 12 months previous to their embarkation; such certificates testifying, generally, as to moral character, and, more particularly, as to honesty, sobriety, and industry.

3. Certificates from the masters they have served during the six months preceding their embarkation, specifying the time they have been in their employ, and the character they have borne.—If following any of the trades or occupations included in the *first class*, whether or not they are entitled to be ranked in that class,—and also, whether they are known to be acquainted with the common branches of education, that is, reading, writing, and the elements of arithmetic.

4. And all such certificates must contain the dates on which they were granted, and the address of the parties by whom they were signed.

5. With the documents alluded to in the preceding regulation, the holder of the bounty order will also be required to produce a declaration on the part of each immigrant, that, previous to his entering into an engagement with the said holder to proceed to this colony, he had been informed of the conditions on which the order had been granted, as it regards the money wages and other allowances he was to receive, the period he was to serve, and all other stipulations specified in the holder's application.

6. It will also be required of the holder of a bounty order, that he produce, on the arrival of the immigrants, the certificate of a medical officer, appointed by the government in this colony to that duty, that the immigrant for whom bounty is payable, is an able-bodied person, without any constitutional disease calculated to shorten life; and, further, that he had had adequate accommodation and provision for himself and family during the passage,

7. The conditions expressed in the above regulations being fulfilled on the part of the holder of the bounty order, he will be required, before the bounty is paid, to enter into contract with such immigrant, for the period stipulated in his application, and on the terms therein specified; on fulfilment of which the bounty will be paid.

8. It will be the privilege of all immigrants to consult with the government emigrant agent at the port where he may embark, as to the accommodation and provision during the passage to which he is entitled for himself and his family, and the seaworthiness of the vessel in which his passage is engaged:—and it is to be distinctly understood, that if any immigrant on his

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Immigration  
Regulations.

arrival here can produce the certificate of such agent, that the adequate accommodation or provision had not been furnished; the bounty due on the order issued cannot be claimed, provided such certificate has been shown to the party by whom such accommodation and provisions were furnished previous to embarkation.

9. The following extract from the colonization circular issued by Her Majesty's colonial land and emigration commissioners, dated 9, Park-street, Westminster, 13th May 1843, is inserted for the information and guidance of immigrants :—

*List of the Government Emigration Agents in the United Kingdom.*

Lieut. Lean, R.N., London, (Office, East Smithfield.)

Lieut. Henry, R.N., Liverpool, (office, 33, Union-street.)

Lieut. Forrest, R.N., Leith.

Lieut. Hemmans, R.N., Greenock.

Lieut. Hodder, R.N., Dublin.

Lieut. Friend, R.N., Cork.

Lieut. Starke, R.N., Belfast.

Mr. Lynch, R.N., Limerick.

Lieut. Shuttleworth, R.N., Sligo.

Lieut. Ramsay, R.N., Londonderry.

"These officers act under the immediate directions of the colonial land and emigration commissioners, and the following is a summary of their duties:—

"They correspond with any magistrates, clergymen, parish officers, or others who may apply to them for information as to the facilities for emigration from their respectable stations. They procure and give gratuitously information as to the sailing of ships, and means of accommodation for emigrants; and whenever applied to for that purpose, they see that all agreements between shipowners, agents, or masters, and intending emigrants are duly performed. They also see that the provisions of the passengers' act are strictly complied with, viz: that passenger-vessels are sea-worthy, that they have on board a sufficient supply of provisions, water, medicines, &c., and that they sail with proper punctuality.

"They attend personally at their offices on every day, and afford gratuitously all the assistance in their power to protect intending emigrants against fraud and impositions, and to obtain redress where oppression or injury has been practised on them."

10. No bounty will be allowed on any single female arriving here under 25 years of age, unless she be under the protection of her parents or other near relative, or of some respectable female passenger.

11. As the object of the government in granting bounty is to procure the introduction of those immigrants into the colony who will go into service,—it is hereby declared, that applicants using



any deception to avail themselves of this means to bring out relations who would not take service, or having recourse to any other deception whereby the obvious intention of the government would be frustrated, will forfeit all claim to bounty.

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Regulations.

12. It is to be understood, that the term holder of a bounty order in this code of regulations implies either the applicant or his agent, on any order they may have received.

13. In making application for bounty orders, the annexed form is to be used.

By Command of His Excellency the Governor,  
(Signed) John Montagu,  
Secretary to Government.

### *Form of Application.*

Name of the applicant, his occupation, and place of residence.  
Number and description of immigrants for whom bounty is requested, viz :—trade or occupation—whether male or female—single or married—and if married, the number of children for whom allowance may be claimed.

The class or classes to which the several immigrants are to belong.  
The period for which he engages to employ them, (not being less than 12 months from the date of their arrival,) and the district of the colony in which they are to be employed.

The port where they are to be disembarked.

The amount of money wages they are to be paid monthly—the weekly rations allowed to each single male and female and to each married couple with their family—the price at which additional rations will be supplied—the extent and kind of accommodation to be furnished each family, and any other perquisite the applicant engages to secure.

The undersigned hereby engages to fulfil to each immigrant for whom a bounty order is issued, the conditions stipulated in this application, and to conform in every respect to the regulations contained in this code.

Dated \_\_\_\_\_ day of \_\_\_\_\_ 184

### *Government Notice.*

WITH reference to the government notice of the 10th inst., publishing the regulations under which immigration bounty orders will be issued; and as some applications for such bounty orders have been sent in to this office differing in form from that prescribed in the said regulations, His Excellency the Governor desires it to be distinctly understood, that no attention will be paid to applications unless drawn up in such manner

Govt. Notice.  
July 18, 1844.

Immigration  
Bounty  
Orders.

Govt. Notice.  
July 18, 1844.

Immigration  
Bounty  
Orders.

as to show clearly, at one view, the questions in the form as well as the answers thereto; and it is strongly recommended that, wherever practicable, use should be made of *printed* forms.

Colonial Office, Cape of Good Hope, 18th July 1844.

By His Excellency's Command,  
(Signed) John Montagu,  
Secretary to Government.

### *Government Notice.*

Govt Notice,  
July 6, 1844.

Orders in  
Council.

THE Right Hon'ble the Secretary of State has been pleased to direct the publication, for general information, of the following orders of Her Majesty in council:—

1. Granting to citizens of the Republic of Hayti, the privilege of trading directly with Her Majesty's colonial possessions in ships built, navigated, and owned as required by the navigation laws of Great Britain.

2. Exempting from duty specimens illustrative of natural history on their importation into Her Majesty's colonial possessions.

Colonial Office, Cape of Good Hope, 6th July 1844.

By Command of His Excellency the Governor,  
(Signed) John Montagu,  
Secretary to Government.

### *At the court at Buckingham Palace, 23d August 1843.*

Ord. in Coun.  
Aug. 24, 1843.

Republic of  
Hayti.

WHEREAS by an act passed in the session of parliament held in the 3rd and 4th years of the reign of His late Majesty King William the fourth, intituled "an act to regulate the trade of the British possessions abroad," after reciting, that, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad from the countries to which they belong, goods, the produce of those countries, and to export goods from such possessions, to be carried to any foreign country whatever, and that it is expedient that such permission should be subject to certain conditions; it is enacted, that the privileges thereby granted to foreign ships shall be limited to ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships; or which, not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nation, unless His Majesty, by his order in council, shall in any case deem it expedient to grant the whole or any part of such privi-

leges to the ships of any foreign country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign country.

Ord. in Coun.  
Aug. 23, 1844.

Republic of  
Hayti.

And whereas Her Majesty, by and with the advice of her privy council, doth deem it expedient to grant the aforesaid privileges of trading with the British possessions abroad to the ships of the Republic of Hayti.

Now, therefore, Her Majesty doth, by the advice aforesaid, and in pursuance and exercise of the power and authority in her respectively vested by the said recited act, order, declare and grant that from the date hereof, and in the mean time until Her Majesty in council shall be pleased to revoke or determine this order by any other order in council, it shall be lawful for vessels to import from the territories of the republic of Hayti into any of the British possessions abroad, goods, the produce of the said territories of the Republic of Hayti, and to export goods from such possessions to be carried into any foreign country whatever.

Provided, always, that nothing herein contained shall be construed to prevent the vessels of the Republic of Hayti from trading with any of the British possessions in Europe, to such extent and in such manner as they lawfully may under the laws of navigation now in force.

Provided, further, that nothing hereinbefore contained shall extend or apply to the possessions of the East India Company.

Provided, always, that the privileges hereby granted shall be confined to vessels of the Republic of Hayti, built, owned, and navigated as required by the British laws of navigation for the time being in force.

And the right honorable the Lords commissioners of Her Majesty's treasury, and the right honorable Lord Stanley, one of her Majesty's principal Secretaries of State, are to give the necessary directions herein accordingly.

C. C. Greville.

*At the court at Buckingham Palace, 23d August 1843.*

WHEREAS by an act passed in the sessions of parliament held in the 5th and 6th years of the reign of her present Majesty, intituled "An act to amend the "laws for the regulation of the trade of the British possessions abroad," it was enacted that there should be raised, levied, collected, and paid to her Majesty the several duties of customs, as the same are respectively set forth in figures in the table of duties thereafter contained, upon goods, wares, and merchandize not being the growth, production, or manufacture of the United Kingdom, or of any of the British possessions in America, or of the Mauritius, or of

Ord. in Conn.  
Aug. 23, 1843.

Specimens of  
Natural  
History.



Ord. in Conn.  
Aug. 23, 1844.

Specimens of  
Natural  
History.

any of the British possessions within the limits of the East India Company's charter, or the produce of any of the British fisheries imported or brought into any of the British possessions in America, or the Mauritius by sea or inland carriage or navigation; And whereas divers articles are enumerated in the said table of duties, and certain duties therein mentioned are therein made payable upon such articles respectively; and the duty of 4 per centum ad valorem is made payable on articles not enumerated, except such as are comprised or referred to in the table of exemptions subjoined to the said table of duties. And whereas it is also enacted by the said act now in recital that it shall and may be lawful for her Majesty, by and with the advice of her privy council by any order or orders in council to be issued, from time to time, to direct that any article described in such order, being an article chargeable under this act as an unenumerated article with a duty of 4 per centum ad valorem, shall be added to the list of exemptions thereinbefore set forth, and shall be free from such duty, and from and after the time mentioned in such orders for the commencement of such exemptions, not being less than six months from the date thereof, such exemptions shall take effect, and such article shall thenceforth, while such order shall continue in force, be free from such duty accordingly; and any such order may at any time be suspended or revoked by Her Majesty, with the advice of her privy council, by any other order in council.

And whereas specimens illustrative of natural history are not enumerated in the said table of duties, neither are they comprised or referred to in the said table of exemptions; and whereas Her Majesty, with the advice of Her privy council, hath thought fit, for the encouragement of the study of natural history, that specimens illustrative of natural history should be exempted from the duties imposed by the said recited act.

Now, therefore, under and by virtue of the said act of Parliament, and in exercise of the powers thereby in Her Majesty in council in that behalf vested, Her Majesty, by and with the advice of Her privy council, doth order, and it is hereby ordered accordingly, that specimens illustrative of natural history, being articles chargeable under the said act with a duty of 4 per centum ad valorem, shall be, and the same are hereby added to the list of exemptions in the said recited act set forth: and that, from and after the first day of February, 1844, the said articles shall be free from such duty as fully and effectually as if such had been inserted and enumerated in the said table at the time of passing the said act.

And the right honorable the Lords commissioners of Her Majesty's treasury, and the right honorable Lord Stanley, are to give the necessary directions herein accordingly.

C. C. Greville.

No. 12, 1844.—(Signed) P. Maitland.

*Ordinance,—To amend the Ordinance No. 8, 1843, intituled “An ordinance for improving the Public Roads of this Colony.”*<sup>(1)</sup>

Ordinance  
No. 12, 1844.  
Hard Road.

*Preamble.—Repeal of certain provisions of Ordinance No. 8, 1843.*

WHEREAS certain of the provisions contained in the Ordinance No. 8, 1843, intituled, “An ordinance for improving the public roads of this colony,” are calculated to entail much and unnecessary expense; and whereas it is expedient to provide other and less expensive modes of accomplishing the objects contemplated by the said provisions:—Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that all and every of the provisions of the said Ordinance, and of any former law or usage in this colony, repugnant to, or inconsistent with, any of the provisions of this Ordinance shall be repealed, and the same are hereby repealed accordingly.

*Central Board to announce rate imposed on immoveable property.*

2. And be it enacted, that it shall and may be lawful for the board in the 22d section of the said Ordinance No. 8, 1843, mentioned, at any time which they shall deem expedient, after the valuator appointed by the said board to value the immoveable property in any division of this colony, for the purpose of assessment under the said Ordinance, shall have given in his valuation of such property to the said board, to assess and impose, and to forthwith announce, the certain rate in the said 22d section of the said Ordinance mentioned.

*Mode of serving notice of valuation of property and of amount of rate.*

3. And be it enacted, that in the place and stead of the written notice in the 20th section of the said Ordinance mentioned, the said board shall give, or cause to be given, to the several persons in that behalf in the said section mentioned, a notice in the English and Dutch languages, which shall, in substance, be in the form in the schedule to this ordinance annexed; and such notice shall be served upon every such last-mentioned person, by leaving the same with him in person; or, in case he shall not be met with at his usual place of residence or elsewhere, then by leaving the same at the residence of such person, with the wife of such person, or any child, or inmate, or servant of such person, who shall appear to be of the age of sixteen years or upwards; or, in case no such person as aforesaid shall be found at such residence, by posting the same upon the door, or some other conspicuous part of the said residence. Provided, always, that it shall not be necessary in any such notice as

(1) *Vide supra* p. 485.

Ordinance  
No. 12, 1844.  
Hard Road.

aforesaid, to set forth the name of the owner or occupier of the property described in such notice, but that it shall be sufficient to address such notice to the owner or occupier of the said property; and provided, that no mistake in the name of any owner or occupier of such property shall vitiate the same, in case such property shall, by name or otherwise, be sufficiently described and distinguished; and that no mistake in the name or the description of the property shall vitiate any such notice, provided the name of the owner or occupier, as the case may be, of such property, shall be correctly given; and provided, that in case any such property shall not have received or acquired any distinctive name, and the name of the owner or occupier shall not be correctly given, so as thereby, and by reference to the same as his, to fix and determine the property meant and intended, it shall be sufficient to describe such property, in substance, as it is described in the title deed thereof, or in such other manner as sufficiently, to a common and reasonable intent, to distinguish it from other property.

*Effects and consequences of notice.*

4. And be it enacted, that the notice in the last preceding section mentioned shall have the same operation, and shall entail the same effects and consequences, in regard to the time and manner of the lodging of objections to the valuation made, as the written notice in the 20th section aforesaid of the Ordinance No. 8, 1843, would have had and done, had this ordinance not been passed; and shall, moreover, in case the amount in such notice mentioned, shall not be paid in manner and form as therein mentioned, on or before the day therein limited for the payment of the same, stand for, and be taken to be, to all intents and purposes, a demand of the amount of such rate, made by a person duly authorized by the said board to collect the same, according to the provisions of the 25th section of the said Ordinance No. 8, 1843.

*Mode of procedure where valuation is objected to.*

5. And be it enacted, that in all cases in which any objections to any valuation made, shall be lodged and determined as in the 20th section of the said Ordinance No. 8, 1843, and in the schedule to this ordinance mentioned, then, although the valuation made may be decreed and adjudged to be corrected, the notice aforesaid, so served as aforesaid, shall be taken and construed as if the valuation, as so corrected, had been set forth in the said notice when originally served; and the amount of the rate, according to the said corrected value, shall be payable accordingly; and no further notice or demand shall be necessary in such case. Provided always, that when any such objections shall be lodged as aforesaid, the party objecting shall be bound, within fourteen days, from the day of the lodging of



the same, on pain, that in case of his default, the valuation objected to shall become *ipso facto* fixed, to call upon the resident magistrate, with whom the same shall be lodged, to fix some convenient future day, for inquiring into and determining the matter of the said objections; and when such future day shall have been so fixed by the said magistrate, no further or other notice, whether by the said board, as in the said 20th section mentioned, or otherwise, of the time of enquiring into and determining the matter in dispute, shall be necessary. Provided also, that such magistrate, as often as the same may be conveniently done, shall proceed to enquire into and determine the matter so in dispute. And in case the said party shall make default upon the day appointed, the valuation objected to shall become fixed; and in any case in which the validity of any objections shall be tried and determined in the court of any resident magistrate, such court may award to the party successful in the proceeding, whether the party objecting or the said board, reasonable costs.

*Where notice duly served, rate to be paid on or before the day fixed*  
—Rate may be paid at the time of serving the notice.

6. And be it enacted, that when and as often as the board aforesaid, shall have announced in the *Government Gazette*, as in the 22d section of the said Ordinance No. 8, 1843, required, the day on which any rate assessed and imposed by virtue of said ordinance shall become due and payable, it shall be incumbent upon the person or persons by law liable to the payment of the said rate, in case the notice by this ordinance provided shall have been previously served, for a period of not less than 31 days, to cause the amount of the rate so assessed and announced in the *Government Gazette*, to be paid to the civil commissioner of the division, or the officer for the time being acting as such, or to the field-cornet of the ward in which the property in respect of which the assessment has been made is situated, on or before the day fixed in the said announcement for the payment of the same, on pain of being forthwith liable to legal proceedings for the recovery of the same. Provided always, that any person or persons so liable as aforesaid may, should he or they think proper so to do, pay to the person serving any such notice as aforesaid, the amount of the rate therein mentioned at the time of the service of the same; and such person is hereby authorised and required to receive the same, and to give a receipt for the sum received.

*Effect of notice not being duly served.*

7. And be it enacted, that when and as often as by reason of distance, accident, neglect, or any other cause or reason whatsoever, the notice aforesaid shall not be served till such time that the day therein limited for the payment of the rate therein

mentioned, shall not arrive till after the day mentioned in the announcement in the last preceding section mentioned as that on which the rate in question is to become due and payable, shall have expired, then and in every such case, it shall be the duty of the person liable to pay the rate, in regard to which such last mentioned notice shall have been served, to cause the said rate to be paid in manner and form, and under the same pains as in the last preceding section mentioned, on or before the day limited for the payment thereof, in and by the tenor and terms of the said notice.

*List of valuations to be transmitted to civil commissioner, and deemed prima facie evidence of amount of rate.*

8. And be it enacted, that the board aforesaid shall, at any time after any valuator appointed by the said board shall have given in his valuation, as in the 2d section of this Ordinance mentioned, and before announcing any such rate as aforesaid for any division, transmit, or cause to be transmitted, to the civil commissioner of such division, or the officer for the time being acting as such, a list signed by the secretary of said board, showing, as clearly as then may be done, the particulars of the several properties in the said division, which have been valued by the valuator of the said board, for the purpose of assessment under the said Ordinance No. 8, 1843, and such list as so transmitted shall, in case no objections shall be afterwards allowed by the court of the resident magistrate to the valuation therein set forth, and, if any such objections be allowed, then when the said list shall be corrected in conformity with the judgment of such court, allowing the said objections, be deemed to be *prima facie* evidence of the amount of rate due and payable in regard to any property therein mentioned, in any suit or proceeding for the recovery of any such rate.

*What sufficient proof of service.*

9. And be it enacted, that when in any suit or proceeding instituted by the said board for the recovery of any such rate, the said board shall prove what would be a sufficient service as aforesaid of some notice relative to such rate, then the notice so served shall be presumed to be sufficient for the purpose of the said suit or proceeding, and it shall not be necessary for the said board to prove the contents of the notice so served, which notice shall be deemed and taken to be formal and sufficient, unless the defendant, by the production thereof, shall prove the reverse to be the case.

*Procedure where proof of service of notice is insufficient.*

10. And be it enacted, that when in any such suit or proceeding as aforesaid, it shall be made to appear that any such notice as aforesaid is insufficient, but nevertheless, that the defendant before the court is a person properly chargeable with

the payment of the rate, as announced as aforesaid in the *Government Gazette*, it shall be competent for the court in which such suit or proceeding shall be pending to permit, if it should so think fit, and upon payment of such costs, if any, as it shall deem just, the said notice to be amended *instantly*; and to pronounce a judgment for the amount of such rate, as, under and by virtue of the provisions of the said Ordinance No. 8, 1843, the said defendant would, in case a proper and sufficient notice had been served, have been liable to pay.

Ordinance  
No. 12, 1844.  
Hard Road.

*Civil Commissioner to receive amount of rate.*

11. And be it enacted, that it shall be the duty of the civil commissioner, or officer for the time being acting as such, in each division in which any such rate as aforesaid shall be assessed, to receive the same from all persons tendering the same, whether the same shall be then due and payable, or not, and to give a receipt for the same, and to comply, in regard to the custody and disposal of all monies so received, with such instructions as he may, from time to time, receive from the board aforesaid in that behalf.

*Field-cornet to receive amount of rate.*

12. And be it enacted, that it shall be the duty of the field-cornet of each ward in every such division as last aforesaid, to receive from all persons tendering the same, whether the same shall be due and payable or not, the amount of the rate chargeable upon any property situate in such ward, and to give a receipt for the same; and to comply in regard to the custody and disposal of all monies so received, with such instructions in that behalf as he may from time to time receive from the civil commissioner of the said division, or the officer for the time being acting as such. Provided, however, that nothing in this or the last preceding section contained shall be construed so as to prevent the board aforesaid from nominating and appointing, should they so think fit, any person or persons whomsoever to collect, in any particular place, any such rate as aforesaid.

*Rates on property situated within municipalities, when and where payable.*

13. And be it enacted, that it shall be incumbent upon all persons by law liable to the payment of any such rate as aforesaid, by reason of property situated within any municipality in any division of the colony, (except as hereinafter provided), to cause the amount of such rate to be paid to the civil commissioner of such division, or the officer for the time being acting as such, on or before the day announced in manner aforesaid, in the *Government Gazette*, for the payment of the same, and no further or other demand than such announcement shall, in regard to property situate within any municipality be necessary



Ordinance  
No. 12, 1844.

Hard Road.

previous to the commencement of any suit or proceeding which may become requisite for the recovery of such rate. Provided that all persons so liable as aforesaid, in regard to property situated within the municipality of Cape Town and Green Point, respectively, shall pay the rate aforesaid, at the office of the said board, to the secretary of the said board, who is authorized and required to receive the same.

*Receipt of list of valuation by civil commissioner to be deemed notice of completion of valuation.*

14. And be it enacted, that the receipt from the board aforesaid, by any civil commissioner or officer for the time being acting as such, of the list in the 8th section of this Ordinance mentioned, shall be deemed, and taken to be, notice to such civil commissioner or officer, as the case may be, that the valuation of the immoveable property in that particular division has been completed, and shall be and become the date from which the calendar month in the 29th section of Ordinance No. 8, 1843, mentioned, shall be calculated, within which calendar month the certain notice in the said section mentioned shall be issued, in order to the election of a divisional board of the said division.

*Notice of future rates, or of rates to be levied by divisional boards, to be made in the Government Gazette.*

15. And whereas, when the valuation of the immoveable property in any division shall have once been fixed and settled, the necessity for incurring, and so of charging upon the division, the expense of separate notices, in every case of a further rate, imposed either by the board aforesaid, or by the divisional board of that division, will be obviated, and such separate notices may be advantageously dispensed with:—Be it enacted, that when and as often as the board aforesaid shall, under the provisions of the said Ordinance No. 8, 1843, announce, in the *Government Gazette*, any rate for any division, other than the first rate for that division, to be levied under the said Ordinance; and when and as often as any divisional board shall assess any rate under the provisions of the said Ordinance, and shall announce the same in the said *Government Gazette*, it shall be incumbent upon all persons liable by law to the payment of such rates respectively, to cause the amount of the rate so assessed and announced, to be paid to the civil commissioner of the division, or the officer for the time being acting as such, or to the field-cornet, if any, of the ward in which the property, in respect of which the assessment has been made, is situated, on or before the day mentioned in the announcement aforesaid as the day on which the said rate is to become due and payable, on pain of being forthwith liable to legal proceedings for the

recovery of the same. Provided always, that the day on which any such rate as aforesaid is to become due and payable, shall not be less than forty-two days from the day of the publication of the *Government Gazette*, containing the announcement of such rate; and provided, that the board, whether central or divisional, announcing any such rate as is in this section contemplated, shall, with all convenient speed, transmit, or cause to be transmitted, to the civil commissioner of the division, or officer for the time being acting as such, and to such field-cornets within the said division, as shall be considered necessary, such a number of copies of the *Government Gazette*, containing the announcement of any such rate as aforesaid, as may, under the circumstances of the case, be deemed sufficient, in order that the same may be circulated for general information; and the said civil commissioner, or officer acting as such, and every field-cornet as aforesaid, shall at all times retain in his office or residence, as the case may be, one copy, at least, of every such Gazette, to be inspected there, at all reasonable times, by such inhabitants of the said division as may apply for permission to inspect the same; and provided also, that the said board, whether central or divisional, shall cause one copy or more of the part of the Gazette aforesaid, which contains the said announcement, to be posted at or on the gates of the Dutch Reformed and English Episcopal Church or Churches within the division, and in some conspicuous place at all public markets within the said division, and shall take such other measures to give due publicity to the assessment of such rate as aforesaid, as circumstances shall permit. But it shall not be necessary, in any suit or proceeding, for the recovery of any such rate, to prove any thing farther, in the nature of due notice of the assessment of the same, than the publication of the announcement of the same in the *Government Gazette*: and provided, that if it shall happen in any division, that the divisional board of such division shall assess and impose a rate before the central board shall have assessed and imposed a rate in such division, then such divisional board shall give, or cause to be given *mutatis mutandis*, the notice in the third section of this ordinance mentioned, and thereupon the like effects and consequences shall take place in regard to such notice as are hereinbefore attached to the said notice when given by the said central board: and provided, that whenever the divisional board of any division shall so, as aforesaid, assess the first rate in any division, it shall not be necessary for the said central board afterwards assessing a rate on the said division, to prove any notice to any person or persons whomsoever, other than the due announcement of the rate in the *Government Gazette*; it being the true intent and meaning of this ordinance, in that behalf, that the separate notice aforesaid should be served only by or on behalf of that

Ordinance  
No. 12, 1844.  
Hard Road.

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Hard Road.

board, whether central or divisional, which shall assess the first rate, by virtue of the Ordinance No. 8, 1843, in any division.

*These rates to be received by the civil commissioner or field-cornet*

16. And be it enacted, that in regard to all such assessments as are in the last preceding section mentioned, it shall be the duty of every civil commissioner, or officer for the time being acting as such, and of every field cornet, to receive the said rates, in manner and form as in the 11th and 12th sections of this Ordinance mentioned, in regard to certain rates therein referred to, and the said sections shall, respectively, apply, *mutatis mutandis*, to the said rates in the last preceding section mentioned, as fully as if they were herein again set forth, and word for word repeated.

#### SCHEDULE.

##### *Division of*

To Mr. A. B. (*the name of the owner or occupier, when the name is known,*) or,

To the owner or occupier of the place (*name the place*) or, (*if necessary*)

To the owner or occupier of the certain undermentioned property, (*describe the property*) or,

To (*varying the address as circumstances shall require.*)

Sir, Take notice, that the place you occupy, (called \*) situated in the field-cornetcy of , in the above division, has been valued for assessment, under the provisions of the Ordinance No. 8, 1843, at the sum of , and that, if you consider the said value excessive, you may within 31 days from the day of the service of this notice, lodge your objections at the office of the resident magistrate of your district, who will summarily enquire into and determine the case; but should you not within the said period thus object, then the valuation aforesaid will become fixed.—And you will further take notice that the rate of in the pound has been assessed upon the immoveable property in this division, by the central board of commissioners of public roads, (*or by the board of public roads for the division of* ) for the year , which rate will amount, upon the value of your place, to £ , and will become due and payable on the (the day announced in the *Government Gazette*) in case this notice shall than have been served for a period of 31 days, but if not, the same will be due and payable at the expiration of 31 days from the day of the service of this notice; and in case the said rate shall not be paid, the civil commissioner, or the officer acting as such for the time being, or the field-cornet of the ward aforesaid, on or before the appointed day, you will be liable, by virtue of the said Ordinance,

\* If the place have no name, omit the words in brackets.



to be summoned forthwith for the payment of the same, without any further notice or demand.

Dated this            day            18

W. T.

Sec. to the C. B. of C. of P. R.  
or

.....  
Sect. to the B of P. R. for  
the Division of—

*God save the Queen!*

Given at the Cape of Good Hope, this 31st day of July, 1844.

By Command of His Excellency the Governor,

(Signed)            John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)            J. Moore Craig,  
Acting Clerk of the Legislative Council.

Ordinance  
No. 12, 1844.

Hard Road.

### *Government Notice.*

NOTICE is hereby given, that, at the request of the inhabitants of that portion of the Albany division known by the name of the *Kat River* settlement, or district,—His Excellency the Governor has been pleased to approve of that district being hereafter called by the name of Stockenstrom; and His Excellency has also approved, at the desire of the inhabitants of *Tamhookie Vley*, of the village there being hereafter called by the name of Hertzog.

Colonial Office, Cape of Good Hope, 15th August 1844.

By His Excellency's Command,

(Signed)            John Montagu,  
Secretary to Government.

Govt. Notice.  
Aug 15, 1844.

Stockenstrom  
and  
Hertzog  
Districts.

### *Proclamation by His Excellency Lieutenant-General Sir Peregrine Maitland.*

WHEREAS by the 4th section of the Ordinance No. 8, bearing date the 22d day of November 1843, and intituled "an ordinance for improving the public roads of the colony,"—it is enacted, that it shall and may be lawful for the Governor of this colony to declare, by proclamation to be by him, from time to time, issued, what particular road shall be deemed, and taken to be, main roads, for the purposes of the said ordinance:—And whereas it is expedient that the road between Cape Town and Caledon be declared to be a main road, under the provisions of the said ordinance,—that is to say, the road from the lower toll gate at the Military lines, (including the branch running from the upper road opposite to Roodebloem into the said lower road,) over the causeway and Montagu bridge at Salt River, along the hard road over the flats to Tiger Vlei in a

Proclamation  
Aug 22, 1844.

Declaration  
of Main  
Road.

Proclamation  
Aug 22, 1844.

Declaration  
of Main  
Road,

direct line; thence along the hard road by a curve to the south east to the ford of Kuils River, near Mr. Neethling's house; thence (continuing the hard road) in a straight line to the ford of Eerste River, commonly known as Brink's drift; thence over the bridge (now building) of said river, to the village of Somerset (West); thence over a bridge (about to be built) of the Laurens River, through a vineyard, the property of Mr. Brink; thence over the slope of the Schaapenberg to the ford of the Nicolaas Rivulet, near Weilbach's; thence over Sir Lowry's Pass through the present ford of the Steembrass stream, to the height above Palmiet River; thence in a line nearly straight to and over the Palmiet River bridge (about to be built) to Knofflock's kraal; thence to Poes Pass vlei (Mr. Jackson's); thence through the whole of said vlei and ravine to the bridge (about to be built) over Bot River, near fieldcornet De Kock's; thence to Boontjes kraal and the village of Caledon.

Now, therefore, I do hereby declare and proclaim, that the said road, described as above, is a main road for the purposes of the said ordinance.

*God save the Queen!*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 22nd day of August 1844.

(Signed) P. Maitland,

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

### *Government Notice.*

#### *Redemption of Quitrents.*

Govt. Notice.  
Aug. 21, 1844.

Redemption  
of Quitrents.

PERSONS who have applied for redemption of quitrents under the Government Notices of the 8th November and 8th January last, and who have paid the redemption money, are hereby informed that the conversion of their lands cannot be completed until their titles (*Grants* and *Transfers*) are forwarded to this office, accompanied by the necessary proof of their having made payment, at or before the prescribed periods, of the sums fixed, and of all rents up to the end of last year.

And with reference to the regulations of the 15th May last, it is further notified, that no application for redemption of quitrents can be entertained, unless the title deeds, (*Grants* and *Transfers*.) and proof of payment of the previous year's rent, be transmitted at the same time with the application.

Colonial Office, Cape of Good Hope, 21st August 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

No. 13, 1844.—(Signed) P. Maitland.

*Ordinance—For transferring to certain other officers the duties of the office of the collector of taxes.*

Ordinance  
No. 13, 1844.  
Collector of  
Taxes

*Preamble.—Former laws repealed.*

WHEREAS by reason of the intended abolition of the office of the collector of taxes in Cape Town, it has become necessary to provide for the performance, after the abolition of the said office, of such of the duties heretofore performed by the collector of taxes in Cape Town, as shall still remain to be discharged; Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the first day of January, 1845, so much of the ordinance No. 43, entitled "An Ordinance of His Honor the Lieutenant-Governor in council, for empowering the collector of taxes of Cape Town, and the civil commissioners of the country districts, to collect the several taxes and duties now or hereafter to be imposed, and payable within the colony;"<sup>(1)</sup> and so much of the Ordinance No. 57, entitled "an ordinance for repealing certain taxes and duties, and imposing certain others in lieu thereof;"<sup>(2)</sup> and so much of the Ordinance No. 6, 1844, entitled "an ordinance enacted by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, for regulating sales by auction;" and so much of any former law or ordinance, if any, as is repugnant to or inconsistent with any of the provisions of this Ordinance, shall be repealed, and the same are hereby repealed accordingly.

*Treasurer general to exercise the duties of collector of taxes,—but need not take the additional official designation.*

2. And be it enacted, that from and after the said first day of January, 1845, all and singular the several duties and functions (except in the case hereinafter excepted) now imposed upon, or exercised by, the collector of taxes in Cape Town, shall thenceforth be imposed upon and exercised by the treasurer general of this colony for the time being, or the officer for the time being acting as such treasurer general, and by no other person, as fully and completely to all intents and purposes, as as if the said treasurer general or officer acting as such had been duly appointed, by such style and title, to be the collector of taxes in Cape Town; and all bonds, vouchers, or rights of action which shall, upon the said first day January, 1845, be vested in or recoverable by the said collector of taxes in his capacity as such collector, shall thenceforth vest in and be recoverable by the said treasurer general, or officer acting as such, and by no other person whomsoever; Provided, that nothing herein contained shall be construed so as to require the said

(<sup>1</sup>) *Vide* vol. 1, p. 433.

(<sup>2</sup>) *Vide* vol. 2, p. 14.



Ordinance  
No. 13, 1844.  
Collector of  
Taxes.

treasurer general, or officer for the time being acting as such, to take or use, in regard to any matter or thing herein referred to, any other or additional style, title, or official designation.

*Auctioneers' recognizances to be entered into before civil commissioner Cape division.*

3. And be it enacted, that the certain recognizance by the Ordinance aforesaid No. 6, 1844,<sup>(1)</sup> directed to be entered into before the collector of taxes in Cape Town, by persons about to take out a licence to exercise the trade or business of an auctioneer, shall, from and after the said first day of January, 1845, be entered into before the civil commissioner of the Cape division, or the officer for the time being acting as such, who is hereby authorised and required to act, in that behalf, in all respects, as by the said ordinance the collector of taxes in Cape Town is authorised and required to do.

*Recognizance, where name of civil commissioner is to be used,—  
where name of treasurer general is to be used.*

4. And be it enacted, that the form of the said recognizance in the schedule to the said last mentioned ordinance set forth, shall, from and after the said first day of January, 1845, be changed, by inserting the name and description of the civil commissioner aforesaid, or officer for the time being acting as such, (as the case may be) for the name of the collector of taxes in Cape Town, as the person before whom the said recognizance is acknowledged, and by substituting in the condition of the said recognizance the treasurer general of the colony of the Cape of Good Hope, or the officer for the time being acting as such, in the place or stead of the name of the collector of taxes, as often as the last-mentioned name occurs in the said condition.

*God save the Queen!*

Given at the Cape of Good Hope, this 28th day of August 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,  
Acting Clerk of the Legislative Council,

<sup>(1)</sup> *Vide supra* p. 543.

No. 14, 1844.—(Signed) P. Maitland.

*Ordinance.—For the better regulation of the office of the Registrar of Deeds.*<sup>(1)</sup>

Ordinance  
No. 14, 1844.

Office of  
Registrar of  
Deeds.

*Preamble.—Deeds may be enregistered although not drawn in the office of Registrar of deeds;—Advocates of supreme court may draw transfer and other deeds.*

WHEREAS it is expedient to make provisions for authorising all persons who may be desirous so to do, to prepare, or cause to be prepared, by such persons, qualified in the manner herein-after provided, as they shall select, certain of the deeds now drawn or prepared exclusively in the Deeds' Registry office of this colony; and to regulate the fees to be hereafter charged and taken in the said office: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this ordinance, it shall and may be lawful for the Registrar of deeds for the time being, or the officer for the time being acting as such, and he is hereby required, duly to register all fit and proper transfer deeds and deeds of hypothecation, now exclusively prepared in the said office, which shall be prepared or drawn by any advocate of the supreme court of the colony, or any person authorized, as in the next succeeding section of this ordinance mentioned but not by any other person or persons whomsoever: and the said registrar may require proof, by signature or otherwise, as he shall think fit, that every such deed as aforesaid, tendered for registration, has been prepared by some person qualified as aforesaid <sup>(2)</sup>

*Other persons may draw such deeds by authority of Governor, when found fit.—Fee for authority, £10.*

2. And be it enacted, that it shall and may be lawful for any person desirous to be authorized to prepare and draw any such deeds as aforesaid, and not being such advocate as aforesaid, to apply to the governor of this colony for the time being, for such authority, and the said governor may, after the fitness of the person so applying shall be certified to him, in like manner as in the case of persons applying for leave to practise as notaries public, or in such manner as to him shall seem more efficient, grant authority to such person to prepare deeds under the provisions of this ordinance, which authority shall be announced in the Government Gazette, and for every such authority the party applying for the same shall pay a fee of £10 sterling.

<sup>(1)</sup> Vide Ordinance No. 39, vol. 1, p. 407, and vol. 2, pp. 264—65.

<sup>(2)</sup> Vide Government Notices 5th September 1844 and 3d October 1844 *infra*,—by the latter of which, persons not residing in or near Cape Town, cannot be authorized; but an Advocate cannot be prevented acting under this Ordinance by reason of his not residing in or near Cape Town.

Ordinance  
No. 14, 1844.

Office of  
Registrar of  
Deeds.

*Fees payable to Registrar of Deeds.*

3. And be it enacted, that from and after the promulgation of this ordinance, the several fees and charges in the schedule to this ordinance set forth, shall be payable to the said registrar of deeds, in regard to the several matters and things respectively in the said schedule mentioned, who is hereby authorized to demand and take the same, and none other.

*Schedule of Fees.*

For the preparation of any deed of transfer, or hypothecation of immoveable property, prepared in the deeds' registry office,	-	-	-	-	£1	1	0
For the registration of any such lastmentioned deed prepared elsewhere,	-	-	-	-	0	10	6
For the registration of a notarial bond or obligation in the name of each debtor and each surety—for each debtor and surety respectively,	-	-	-	-	0	3	0
For a search of the books of transfer or debt registry—for each letter searched,	-	-	-	-	0	2	6
For every registration, entry, or other act, to be made or done in the deeds' registry office, not being any of the matters or things aforesaid,	-	-	-	-	0	1	6

*God save the Queen !*

Given at the Cape of Good Hope, this 28th day of August 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,

Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,

Acting Clerk to the Legislative Council.

No. 15, 1844.—(Signed) P. Maitland.

*Ordinance.—To provide for the enregisterment, in the Land Registers of the Colony, of certain Sub-divisions of the Locations and extensions of the Settlers of 1820.*

*Preamble.*

WHEREAS in consequence of the encouragement to emigration to the Cape of Good Hope, offered by the government of His late Majesty King George the Third, in certain letters dated Downing-street, London, 1819, certain parties of settlers arrived in this colony in and about the year 1820, and were located in the lower part of the division of Albany, and at Glen Lynden in the division of Somerset, on certain lands which were surveyed for the said parties respectively. And whereas certain of the said parties consisted wholly or in part of individuals who paid, in England.

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certain deposits required by the said government, and thereby acquired certain rights to portions of the original locations so surveyed for the said parties;—and whereas other lands were set aside by government, and certain exchanges of granted land were made, for the better maintenance of some of the said parties, and surveys of the shares held by the said individual settlers, their heirs, or assigns, at the date of survey, effected for the purpose of enabling the proprietors thereof to obtain registry of the same in the land registers of the colony; and whereas the said proprietors have been and still are prevented from obtaining such registry by reason of the death, absence from the colony, mental incapacity or insolvency of the former heads, or nominal heads, of their parties to whom in most instances grants of the original locations were issued, or of other persons through or from whom the said proprietors have, mediately or immediately, derived just, lawful, and undisputed rights to the said subdivisions, or by reason that, in many instances, it has now become impossible to produce such legal evidence of the cessions of the said rights as would enable the supreme court or the circuit courts of this colony to declare and enforce the same, while, at the same time, the provisions of the Ordinance No. 97, entitled “ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain lands and houses, to procure the same to be enregistered as their property in the land register,” (1) could not, properly, be accommodated so as to meet the exigency of the cases aforesaid; or, if they could be so accommodated, not without much and unnecessary expense. And whereas in many instances the head of the party cannot give transfer of the sub-divisions which have been effected by reason that the said sub-divisions include, without distinction, portions of land registered as his property, together with portions of lands granted to others, or of ungranted crown lands, allotted to the party. And whereas by reason of the issue and existence of certain title deeds to portions of the lands referred to, the governor of this colony is prevented from directing the issue of new title deeds of the said sub-divisions in the names of the persons justly entitled to the same, and thus giving them registry in the land registers of this colony.

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*Proclamation to be made of names of persons recommended by land board, to receive grants of subdivisions of locations.*

2. Be it therefore enacted by the governor of the Cape of Good Hope, by and with the consent of the legislative council thereof, that from and after the promulgation of this ordinance, it shall and may be lawful for the governor of this colony to publish by proclamation in the *Government Gazette*, and in some one or more of such newspapers as shall be published in

(1) *Vide* vol. 2, page 212.

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Graham's Town, the names of such persons as shall, after due investigation, be recommended by the board of commissioners for lands as the persons entitled to receive grants of the aforesaid sub-divisions of locations, together with a description of the said sub-divisions, and also the particulars of all such grants of original locations, and other lands, as it may be necessary to cancel, by reason of portions thereof being included in such aforesaid sub-divisions, and thereupon to proclaim that unless objections, showing cause to the contrary, be lodged, in writing, at the office of the secretary to government, in Cape Town, within six weeks from the day on which such proclamation shall be last published, the title deeds therein mentioned will be cancelled, and the sub-divisions aforesaid granted accordingly.

*Unless objections be lodged (within six weeks) with secretary to government, existing titles to be cancelled, and grants of sub-divisions issued.*

3. And be it enacted, that in case no objections are lodged in the office of the secretary to government, as aforesaid, at or before the expiration of the term of six weeks as aforesaid, it shall and may be lawful for the said governor to direct the said title deeds to be cancelled, and the grants of the said sub-divisions to be issued accordingly.

*Objection to be referred to land board, and if previous recommendation be amended, then a further publication of six weeks; and if no further objection be lodged, title to be cancelled or issued, as the case may be.*

4. And be it enacted, that in case any such objections as aforesaid, shall be lodged as aforesaid, the said objections shall be referred to the board of commissioners for lands, for investigation, and should the said board deem it necessary, in any case, to amend their previous recommendation, a further publication of six weeks, by proclamation, in manner aforesaid, of such amended recommendation, shall be necessary, before it shall be lawful for the said governor to direct that any title deeds or title deed shall, in conformity with such amended recommendation, be cancelled or be issued, as the case may be: Provided, that if no objection be lodged within the said period of six weeks, to any such amended recommendation, it shall be lawful for the said governor, to direct the certain title deeds, or title deed, referred to in such amended recommendation to be cancelled, or issued, as the case may be, in conformity therewith.

*Nature of notice, if board report no cause to amend recommendation.—Grant or cancellation may be interdicted, if interdict be sued out within three months.—Interdict to be lodged with secretary to government; otherwise, title to be issued or cancelled, as the case may be.—Time for interdict may be enlarged.*

5. And be it enacted, that if, after any such objections as are mentioned in the second section of this ordinance, shall have

been referred to the board of commissioners for lands, the said board shall report to the said governor, that they do not see cause to amend their recommendation, or if any objections to the amended recommendation mentioned in the 4th section of this ordinance, shall be lodged as aforesaid, the said governor shall cause a government notice to be published in the Government Gazette, and in one or more of the newspapers to be published in Graham's Town, setting forth the particulars of any title deeds or title deed, the cancellation of which shall have been objected to, and a description of the several sub-divisions which contain portions of the land described therein, and also the names of the person or persons to whom it is recommended to issue title deeds of the said sub-divisions respectively, and in the case of such of the said sub-divisions as may be unclaimed, or if claimed, when the claims to the said sub-divisions are not proved or have not been reported on, then the name or names of the persons for whom the said sub-divisions respectively have been surveyed,—or a description of the title deed or title deeds, if any, the issue of which shall have been objected to, accompanied by an announcement that the deeds aforesaid will be cancelled, or issued, as the case may be, unless such cancellation or issue shall be restrained by the interdict of some competent court, or judge, to be duly sued out within three months from the date of such notice; and when and as often as any such notice shall be published, then all persons who shall object to any of the matters or things embraced in such notice, and by the same announced as intended to be done, shall be bound to apply to some competent court, or some judge having lawful authority, for an interdict or order restraining all parties whom it may concern, from proceeding to do the matter or thing which the person applying alleges ought not to be done; and unless the person so applying for such interdict shall obtain the same, and shall, within a period of three months from the date of the last publication of the said notice, (if published on more days than one,) lodge the said interdict, or a copy thereof, in the office of the secretary to government in Cape Town, then it shall be lawful for the governor of the colony to direct that the title deed shall be issued, or the existing title deed shall be cancelled, as recommended by the said board of commissioners for lands: Provided always, that it shall and may be lawful for the said governor, upon cause shown, to enlarge the time within which, in any particular case, such interdict may be applied for.

*Supreme and circuit courts may interdict, but applicant must show some right.*

6. And be it enacted, that it shall be lawful for the supreme court, or any circuit court of this colony, to grant and interdict



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to any person or persons applying, as aforesaid, for the same, in case it shall appear that the party so applying has some right to, or over, or in respect of the land of which a title deed is recommended to be cancelled, and to the cancellation of which such party objects, or to which any new grant is announced as intended to be made, and moreover, that such party is likely to be prejudiced by the cancellation or issue, as the case may be, of any title deeds or title deed, intended to be cancelled or issued respectively.

*Notice of interdict to be published, and facilities for removal thereof to be given to parties whose claims are stayed.*

7. And be it enacted, that when and as often as any such interdict as aforesaid, or any copy thereof, shall be lodged at the office of the secretary to government in Cape Town as aforesaid, a public notice of the lodgment of the same shall be forthwith given in the *Government Gazette*; and in some one of such newspapers as aforesaid, and the said interdict, or a copy thereof, together with the claim or claims, and all the proofs and documents relating thereto, on which the recommendation of the board of commissioners for lands was founded, shall be delivered, or transmitted to, or placed at the disposal of the person or persons, or some one of them, to whom the grant was recommended, or whose claims shall be stayed by the said interdict, or their heirs, or other representatives, for the purpose of enabling him or them to procure the removal of the said interdict, and the final determination, according to law, of all questions in dispute connected with the same.

*In certain cases, interdict to have the effect of final judgment.*

8. And be it enacted, than when and as often as any such final determination as aforesaid, shall have been made by any competent court, in any suit or proceeding arising from, or connected with, any such interdict as aforesaid, the cancellation of any old title deed, or issue of any new title deed, respectively, shall be regulated in conformity with the judgment of such court, and so as to secure, as much as may be, the rights of all parties, as the same shall have been ascertained and declared, by the judgment of such court. But in case it shall so happen, that the person or persons whose claims are stayed, or supposed rights affected, by any such interdict, shall not, within a period of six months from the date of the publication of the notice in the last preceding section mentioned, obtain a final determination of the matters in dispute in regard to the same, and give notice of such final determination being had and come to, to the secretary to government in Cape Town, then the matters so in dispute shall be considered as if decided in favor of the party who shall have obtained the interdict, and thereupon the con-

sequences hereinbefore mentioned shall take place in the same manner as if a competent court had finally determined in favor of such party. Provided, always, that it shall be lawful for the governor aforesaid, to enlarge the time during which notice of any such final determination being had and come to may be given as aforesaid to the secretary to government.

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*Sub-divisions unclaimed, (or claim not proved) to be sold, unless notice, shewing cause, be lodged within three months.*

9. And be it enacted, that when there shall remain any sub-division or sub-divisions of locations aforesaid, to which no claim has been made, or the claims to which shall not have been proved, so as to enable the said land board to recommend the issue of the title deed or title deeds thereof, to the claimant or claimants respectively, or to any other person, it shall be lawful for the governor of the colony, to cause to be published in the *Government Gazette*, and in one or more of the newspapers which shall be published at Graham's Town, a notice, describing the said sub-division or sub-divisions, and declaring, that unless a notice, stating cause to the contrary, be lodged in the office of the secretary to government in Cape Town, within three months after such notice shall be last published, the said sub-division or sub-divisions will be sold by public auction for account of whom it may concern.

*Proceeds of sale—how to be applied.*

10. And be it enacted, that if no such notice as aforesaid be lodged as aforesaid, at or before the expiration of the said three months, then it shall be lawful for the said governor, at any time thereafter, to cause the said sub-division or sub-divisions to be sold in freehold by public auction; and in case of any such sale, the proceeds, after deduction of the expences of sale, shall be disposed of in manner following, that is to say:—first, a sum equal to fifteen years' purchase of the annual quitrent fixed for settlers' grants, and of such stamps as would have been required in respect of such annual quitrent for the said period, shall be paid into the colonial treasury, to account of the general revenue;—secondly, the amount of loan from the storm fund, if any, with the interest thereon, if any, shall be paid into the said treasury, to account of the said fund; and lastly, the remainder of the said proceeds, if any, shall be paid into the guardian fund in the name of the proprietor, at the date of the said sale of the location surveyed for, or other person justly entitled thereto, or to any portion thereof, there to be subject to the same provisions, in all respects, which are provided by the Ordinance No. 105, bearing date the 5th of July, 1833, in regard to monies placed in the said fund belonging to persons absent from the colony.

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*In case of notice under sec. 9, reference to be made to land board, and if grant be recommended, then proclamation to be made as in sec 2. But if claim be rejected, then sale to proceed, unless interdict be had and notified within three months.*

11. And be it enacted, that in case such a notice be lodged as the second notice in the 9th section mentioned, the said notice shall be referred to the land board, and if the said board shall be enabled thereby to recommend the issue of title deed to the party who shall have lodged such notice, or to any other person, the name of the person or persons so recommended by the said board, and the description of the sub division or sub-divisions referred to, shall be published by proclamation, as in the 2nd section of this ordinance provided. But if it shall appear to the said board, that the said notice does not state any sufficient cause against the said sale, and the party lodging it does not furnish sufficient proof, to enable the said board to recommend the issue of title deed to such party, or any other person, then it shall be lawful for the said governor, to cause a notice to be inserted in the Government Gazette, and in some one or more of such newspapers as shall be published at Graham's Town, declaring, that unless restrained by an interdict of some competent court, or some judge having lawful authority, to be lodged at the office of the secretary to government in Cape Town, within three months from the publication of such notice, the sub-division or sub-divisions mentioned in such notice will be sold by public auction; and provided no such interdict be lodged as aforesaid, then it shall be lawful for the said governor to direct the said sub-division or sub-divisions to be sold, as aforesaid, by public auction, and the proceeds thereof disposed of as provided for in the 10th section of this ordinance; but in case an interdict shall have been so lodged as aforesaid, then every matter and thing in relation to the said sub-division or sub-divisions, or to the title deed thereof, or to the rights of any parties to or over the same, shall be governed and directed by any order, judgment, or decree in the premises, of any competent court.

*Grants and cancellations under this ordinance may be affected on every ground that would affect a decree of court of the same effect.*

12. And be it enacted, that the cancellation of every title deed effected under the provisions of this ordinance, and every title deed issued under the said provisions, shall, respectively, be liable to be annulled, set aside, limited, qualified, and affected on every ground, and by reason of every cause, matter, or thing, (and shall not be annulled, set aside, limited, qualified, or affected on any ground, or by reason of any cause, matter, or thing,) on or by reason of which, such cancellation would by law, have been liable to be annulled, set aside, limited, qualified, or affected, in case such cancellation of any old deed had been respectively decreed by some competent court in some suit



or proceeding, in which all persons, not under some legal disability at the time of such suit or proceeding, and having any right or title to, or interest in, any of the land effected by such cancellation or title deed, were duly before the said court.

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*This Ordinance not to prevent proceedings at law, or applications for enregisterment under Ordinance 97 ;—Provided such proceedings or application be not relative to any sub-division contained in any proclamation under sec. 2.*

13. And be it enacted, that nothing in this ordinance contained, shall be held or construed, so as to prevent any person or persons whomsoever, from proceeding in any manner in which he or they may be advised, in any competent court, in regard to any lands belonging or appertaining to any of the locations or extensions of the said settlers of 1820 ; or from applying to the committee nominated and appointed under Ordinance No. 97, in order to obtain enregisterment in any case to which the said Ordinance No. 97, shall be considered by such person or persons to apply. Provided, always, that no such proceeding as aforesaid, in any such court, (except as certain proceedings are by this ordinance contemplated and provided as aforesaid,) and no application to the said committee shall, in any case, be commenced by any person or persons in regard to any locations or sub divisions mentioned in any such proclamation, as in the second section of this ordinance provided ; and all persons having commenced, or being interested in, any suit or proceeding at law, or any application to the said committee in regard to any title-deed or to any sub-division or subdivisions mentioned in any such proclamation, shall be bound, within six weeks from the date of the publication of such proclamation, to lodge at the office of the secretary to government in Cape Town, notice of the pending of such suit or application,—which notice shall be deemed and taken to be an objection duly lodged, as in the 4th section of this Ordinance provided.

*No proclamation under sec. 2, to issue after December 31, 1846.*

14. And whereas it is expedient to limit the time during which the provisions of this ordinance shall be operative, be it enacted, that this ordinance shall take effect from and after the promulgation hereof, and that no such proclamation as is in the second section of this Ordinance mentioned, shall be issued after the 31st day of December, 1846.

*God save the Queen !*

Given at the Cape of Good Hope, this 28th day of August, 1844.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

J. Moore Craig,  
Acting Clerk to the Legislative Council.

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Govt. Notice,  
Sept. 2, 1844.

*Government Notice.*

Treaty between Great Britain and Grand Duke of Oldenburg.

THE following treaty of commerce and navigation between Her Majesty and the grand Duke of Oldenburg, is published, for general information, by direction of the right honorable the Secretary of State.

Colonial Office, Cape of Good Hope, 2<sup>d</sup> September, 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*Treaty of commerce and navigation between Her Majesty and the Grand Duke of Oldenburg, signed at London, April 4, 1844.*

[Ratifications exchanged at London, April 30, 1844.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, on the one part, and His Royal Highness the Grand Duke of Oldenburg, on the other part, being equally animated by the desire of extending the commercial relations between their respective dominions, have agreed for this purpose to conclude a treaty of commerce and navigation, and have named as their respective plenipotentiaries, that is to say :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable George Earl of Aberdeen, Viscount Gordon, Viscount Formartine, Lord Haddo, Methlick, Tarvis, and Kellie, a peer of the United Kingdom, a member of Her Majesty's most honorable privy council, knight of the most ancient and most noble order of the Thistle, and Her Majesty's principal secretary of state for foreign affairs; and the right honorable William Ewart Gladstone, a member of Her Majesty's most honorable privy council, a member of parliament, and president of the committee of privy council for affairs of trade and foreign plantations :

And His Royal Highness the Grand Duke of Oldenburg, the Sieur Henry Frederick Tiarks, knight of the Oldenburg Order of the House and of Merit, Chargé d'affaires of His Royal Highness ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles :—

Art. 1.—From and after the date of the exchange of the ratifications of the present treaty, British vessels arriving at, remaining in, or departing from the ports of the Grand Duchy of Oldenburg, and vessels of the Grand Duchy of Oldenburg arriving at, remaining in, or departing from the ports of the United Kingdom of Great Britain and Ireland, or of Her Britannic Majesty's possessions abroad, shall be subject to no other or

higher dues or charges, of whatsoever nature they may be, than those which are now, or shall hereafter be imposed upon national vessels, on their arrival at, during their remaining in, or on their departure from such ports.

Art. 2.—1°. All articles of the growth, produce, or manufacture of the dominions of His Royal Highness the Grand Duke of Oldenburg, which are or shall be permitted to be exported from the ports of Oldenburg in vessels of Oldenburg, shall likewise be permitted to be exported from those ports in British vessels, either to the ports of the United Kingdom or of Her Britannic Majesty's possessions abroad, or to the ports of any other foreign country.

2°. All articles of the growth, produce, or manufacture of the dominions of Her Britannic Majesty, which are or shall be permitted to be exported from the ports of the United Kingdom of Great Britain and Ireland, or of Her Britannic Majesty's possessions abroad, in British vessels, shall likewise be permitted to be exported from those ports in vessels of Oldenburg, either to the ports of Oldenburg, or to the ports of any other foreign country.

3°. All articles of the growth, produce, or manufacture of the dominions of His Royal Highness the grand Duke of Oldenburg, which are or shall be permitted to be imported in British vessels, from the ports of Oldenburg or from the ports of any other foreign country, into the ports of the United Kingdom of Great Britain and Ireland, or from the ports of Oldenburg into the ports of Her Britannic Majesty's possessions abroad, shall likewise be permitted to be imported in vessels of Oldenburg.

4°. All articles of the growth, produce, or manufacture of the dominions of Her Britannic Majesty, which are or shall be permitted to be imported into the ports of Oldenburg in vessels of Oldenburg, shall likewise be permitted to be imported into those ports in British vessels, either from the ports of the United Kingdom of Great Britain and Ireland, or of Her Britannic Majesty's possessions abroad, or from the ports of any other foreign country.

Art. 3. All articles whatsoever which can be legally imported into the ports of the United Kingdom of Great Britain and Ireland, or of Her Britannic Majesty's possessions abroad, in vessels of Oldenburg, or into the ports of Oldenburg in British vessels, shall, on their importation, be subject to the same duties of importation, dues, and charges, and be entitled to the same bounties, drawbacks, and allowances, whether such articles be imported in vessels of the one or of the other country.

Art. 4.—All articles whatsoever which can legally be exported from the ports of the United Kingdom of Great Britain and Ireland, or of Her Britannic Majesty's possessions abroad, in vessels of Oldenburg, or from the ports of Oldenburg in British vessels, shall, on their exportation, be subject to the same duties of exportation, dues, and charges, and be entitled to the

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same bounties, drawbacks, and allowances, whether such articles be exported in vessels of the one or of the other country.

Art. 5.—In consideration of British vessels, together with their cargoes, being by the laws of Oldenburg admitted to entry in the ports of Oldenburg, when coming from the ports of all countries: and in consideration of British trade and navigation with Oldenburg being placed upon the footing of the most favoured nation; having regard also to the facility which the application of steam power to inland navigation affords for the conveyance of produce and merchandize of all kinds up and down rivers, and to the new opening which may by these means be given to the trade and navigation between the United Kingdom and Her Britannic Majesty's possessions abroad, on the one hand, and the grand duchy of Oldenburg on the other;—it is agreed that vessels of Oldenburg, together with their cargoes, consisting of all such goods as for the time being may or can be legally imported into the United Kingdom and Her Britannic Majesty's possessions abroad, by the said vessels, from any port of Oldenburg, shall, when coming from the ports of the Elbe, the Ems, the Weser, or the Meuse, or any other navigable river between the Elbe and the Meuse, be admitted into the ports of the United Kingdom and of Her Britannic Majesty's possessions abroad, on the same terms as if the ports from which such vessels may come as aforesaid, were within the dominions of the Grand Duke of Oldenburg; and such vessels shall be permitted to import such goods as aforesaid upon the same terms on which such goods might be imported if coming from the ports of Oldenburg; and also, that such vessels proceeding from the United Kingdom, or Her Britannic Majesty's possessions abroad, to the ports aforesaid, shall be treated as if returning to a port of Oldenburg.

And it is hereby agreed, that the privileges granted by the 5th article of this treaty, shall continue only so long as British vessels and British trade and navigation shall continue to enjoy the advantages, in consideration of which the said privileges are hereinbefore mentioned to have been conceded.

And further, that the said privileges shall extend and be continued to the vessels of Oldenburg, in respect to the ports referred to in this article, only so long as British vessels and their cargoes shall, upon their arrival thereat, during their remaining therein, and upon their departure therefrom, be placed upon the same footing as vessels of Oldenburg.

Art. 6 —The present convention shall be in force until the 1st of January 1848, and further for the term of six years, provided that neither of the high contracting parties shall have given to the other six months' notice, that the same shall cease to be in force on the said 1st of January 1848; and if neither party shall have given to the other six months' previous notice, that

the present convention shall cease on the 1st of January 1848, then the present convention shall further remain in force until the 1st of January 1854, and further until the end of twelve months after either of the high contracting parties shall have given notice to the other of its intention to terminate the same, each of the high contracting parties reserving to itself the right of giving such notice to the other. And it is hereby agreed between them, that at the expiration of twelve months after such notice shall have been received by either party from the other, this convention, and all the provisions thereof, shall altogether cease and determine.

Govt. Notice.  
Sept 2, 1844.

Treaty bet-  
wee Great  
Britain and  
Grand Duke  
of Oldenburg.

Art 7.—The present convention shall be ratified, and the ratifications thereof shall be exchanged at London at the expiration of two months, or sooner if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the fourth day of April, in the year of our Lord one thousand eight hundred and forty-four.

(L.S.) Aberdeen.

(L.S.) H. F. Tiarks.

(L.S.) W. E. Gladstone.

### *Government Notice.*

WITH reference to the Ordinance No. 14, dated the 28th ult., "for the better regulation of the office of the registrar of deeds," —Notice is hereby given, that His Excellency the Governor has appointed the hon. the Attorney General, the hon. the Auditor General, and the Registrar of Deeds, to be a board for the examination of persons, not being advocates of the supreme court, who may desire to be licensed to prepare and draw deeds of transfer and hypothecation, which have hitherto been prepared and drawn exclusively in the said office.

Govt Notice.  
Sept. 3, 1844.

Registrar of  
Deeds' Office

Colonial Office, Cape of Good Hope, 5th September 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

No. 16, 1844.—(Signed) P. Maitland.

*Ordinance.—For fixing the precedence of the Lieutenant Governor of the Eastern Districts of the colony.*

WHEREAS it is expedient to fix by law the precedence of the Lieutenant Governor of the Eastern Districts of this colony; Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this ordinance,

Ordinance  
No. 16, 1844.

Precedence  
of Lieutenant  
Governor.

Ordinance  
No. 16, 1844.

Precedence  
of Lieutenant  
Governor.

the Lieutenant Governor, or officer administering for the time being the office of Lieutenant Governor, of the Eastern districts of this colony, shall, within the limits of the said districts, have, hold, and enjoy the same precedence over all persons whomsoever as would, by law, belong to a Lieutenant Governor in the actual administration of the government of the colony during the absence of the Governor thereof from the colony.<sup>(1)</sup>

*God save the Queen !*

Given at the Cape Good Hope, this 17th day of September 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) H. Lynar,  
Acting Clerk of the Legislative Council.

### *Government Notice.*

Govt. Notice.  
Sept. 25, 1844.

Parish of  
Victoria.

NOTICE is hereby given, that at the request of the churchwardens of the parish of Zeekoegat, in the division of Beaufort, His Excellency the Governor has been pleased to approve of that parish being hereafter called "Victoria."

Colonial Office, Cape of Good Hope, 25th September 1844.

By Command of His Excellency the Governor,

(Signed) W. Smith,  
For the Secretary to Government.

### *Proclamation by His Excellency Lieut-General Sir Peregrine Maitland.*

Proclamation  
Oct. 3, 1844.

Murder of  
De Lange.

WHEREAS on the first day of July 1844, and at a certain place near the Fish River, in the division of Albany, Johan Hendrik de Lange, farmer, deceased, was mortally wounded with fire arms, by certain persons then engaged in the act of stealing cattle from the colony, and whom the said Johan Hendrik de Lange, with others, was, when so mortally wounded, engaged in pursuing. And whereas of seven persons who are supposed to have been combined in the predatory party by which the said Johan Hendrik de Lange was killed, two individuals have been given up for trial and are now in custody, and one was killed, at the time and place aforesaid, by the party in pursuit. And whereas four other individuals charged in regard to the death of the said Johan Hendrik de Lange, with the crime of murder, namely Geke and Umfundise, sons

<sup>(1)</sup> Vide 7th and 8th sections of the Charter of Justice,— see the Appendix and Letters Patent of 28th November 1843,



of Umcheleta, Ubana, son of Gomfo, and Kebe,—all subjects of Sandilla, chief of the Gaika Tribes of Kafirs, have not yet been made amenable to justice : now, therefore, I do hereby proclaim, declare, and make known that a reward of two hundred pounds will be paid to any person or persons who shall apprehend and lodge in safe custody, or who shall give such information as shall be the means of leading to the apprehension and lodging in safe custody, of the said Geke, Umfundise, Ubana and Kebe ; or a reward of fifty pounds for each of the said last mentioned persons who shall be apprehended as aforesaid, or regarding whom such information as aforesaid shall be given.

Proclamation  
Oct. 3, 1844.

Murder of  
De Lange.

*God save the Queen !*

Given under my Hand and the Public Seal of the Settlement, at Fort Beaufort, Cape of Good Hope, this 3d day of October 1844.

(Signed)

P. Maitland.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

To Charles L. Stretch, Esquire,  
Diplomatic Agent, Tyumie Residency.

*Fort Beaufort, 2d October 1844.*

SIR,—In reference to the communications you have recently submitted to the governor relating to the Kafir Tribes, His Excellency has made the following observations, which he has directed me to convey to you for the information of the Gaika Chiefs.

Letter to  
Dip. Agent  
Tyumie Re-  
sidency.

Oct. 2, 1844.

When his honor the Lieutenant Governor, wearied with the depredations and outrages committed in the colony by the people of the Gaika tribes, was moved to enter the neutral territory with Her Majesty's troops in order to obtain the murderers of the farmer De Lange, his honor declared that the Queen's troops should not leave the territory until the murderers were delivered up. The Gaika Chiefs first sheltered these men, then suffered them to escape, and two only of the seven have been given into our hands.

The above-mentioned declaration of his honor, the governor has determined to fulfil; and the site of a permanent military post has been occupied by his excellency's order within that part of Her Majesty's territory, which, as a special mark of Her Majesty's grace, was accepted by the Gaika chiefs as a loan, and on condition of a faithful use of their utmost endeavours to prevent a rupture, by removing every cause of disagreement which might occur between their people and Her Majesty's subjects. Experience has unhappily proved how little these conditions have been regarded, and what numberless acts of outrage and depredation have been continually committed on the Colonists

Letter to  
Dip. Agent,  
Tymie Re-  
sidency.

Oct. 2, 1844.

under the shelter of friendly treaties. If the hearts of the chiefs are honestly set upon restraining their people from such acts, the presence of Her Majesty's troops will strengthen their hands to effect it. If this measure fails, others, more decisive, must be resorted to ; but before they resolve to persevere in a system which it would be criminal in the British government to tolerate, his excellency would recommend the Gaika Chiefs to consider well, where they can hope to find so desirable a country, or so generous a protection, as that which they seem insantly determined to forfeit.

Unwilling to contemplate the arrival of such a crisis, and in order, if possible, to avert it, his excellency has ordered new treaties with the Gaika Chiefs to be prepared, and when complete to be submitted to the Chiefs for their concurrence. At the same time, His Excellency has no hope that those, or any other treaties that can be devised, will be found effective, unless the Chiefs and heads of kraals are determined to act faithfully and honestly towards the British government.

From the nature of the country, the position of the kraals in relation to each other, and the impossibility of any thing passing in each kraal without its being seen or heard by the head of it, his excellency is entirely satisfied that the Kafir authorities cannot but, at least, be tacit assenters to the depredations which are committed,—to say nothing of other sources of information which confirm this fact.

It cannot, his excellency observes, be for the want of knowledge of what is right, that the Gaika Chiefs act thus. They have the advantage of having missionaries among them, who will always be found ready to give them honest and good advice. If they fail, therefore, of enjoying, through their evil conduct, the friendship and protection which the British government is anxious to afford them, their failure will rest entirely on their own choice ; they will have no one to condemn for it but themselves.

His Excellency requests that you will read and explain this letter to the Gaika Chiefs.

I have the honor to be,

Sir,

Your most obedient, humble servant,

(Signed) John Montagu.

### *Government Notice.*

Govt. Notice.  
Oct. 3, 1844.

Deeds of  
Transfer, &c.

SEVERAL applications having been received from attornies, and others resident in the country, for licences to draw and prepare deeds of transfer and of hypothecation, under the provisions of ordinance No. 14, 1844,—Notice is hereby given, that no such licences or authorities can be granted to parties not residing

in Cape Town, or within such reasonable distance from it, as will admit of their having personal reference to the deeds' registry office, without which, the board of examiners are of opinion, such deeds cannot be properly prepared.

Colonial Office, Cape of Good Hope, 3d October 1844.

By Command of His Excellency the Governor,

(Signed) Wm. Smith,

For the Secretary to Government, absent on duty.

Govt. Notice.  
Oct. 3, 1844.

Deeds of  
Transfer, &c.

### *Government Notice.*

NOTICE is hereby given, that his excellency the governor has been pleased to direct, that from and after the 1st January next, all expenses for transport furnished to officers travelling on duty, shall be paid for by such officers immediately after the service has been performed, according to the tariff rates, and upon receipts to be given to them by the parties; and that, consequently, from the said date, the present system of issuing certificates to enable the parties to receive payment from the civil commissioners, will be wholly discontinued, and payment in cash will be made on the spot.

Govt. Notice.  
Nov. 7, 1844.

Transport to  
Officers.

And it is further notified, that re-payment will be made to the officers upon proper accounts to be rendered, accompanied by vouchers in the usual manner.

Colonial Office, Cape of Good Hope, 7th November 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

### *Government Notice.*

It having been recently ascertained that the island of Malagas, situated at the entrance of Saldanha Bay, within the Cape division, contained "Guano" of good quality,—the governor directed a survey of it to be made by an officer of the surveyor general's department, from whose report it appears that the guano is deposited in the centre of the island, and covers a surface (nearly in a circle) of about eight acres.

Govt. Notice.  
No. 5, 1844.

Guano—Ma-  
lagas Island.

The guano, which is in a flattened conical form, rises near the coast about four yards high above low water mark, and gradually increases to a thickness at the top of the height, or centre of the cone, to seven and eight yards.

The guano on the island of Malagas may be removed under the following arrangements:—

1. Licences will be issued by the collector of customs in Cape Town, to masters of vessels of any nation, to proceed to the spot and remove the guano upon payment to that officer of *one pound sterling* per registered ton, (new measurement) of the vessel named in the licence.



Govt. Notice,  
Nov 5, 1844.

Guano.—Malagas Island.

2. The master of the vessel to remove the guano from the island to his vessel without receiving any assistance whatever from the government.

3. The guano to be dug out in vertical portions from the surface, or top of the field, down to the rock upon which it rests, in such parts of the island as shall be pointed out by the government resident of Saldanha bay.

4. The vessels employed can clear out from Table Bay for any part of the world allowed by the navigation laws. They will be provided with a sufferance to load guano at Malagas island, so as to enable them to proceed direct on their voyage from Saldanha bay.

5. Should more vessels obtain licences than can, conveniently, load at the same time, the government resident has been instructed to give them priority in loading in the order of the dates of their licences.

The landing-place on Malagas island is on the eastern side.

It is believed that the guano can be removed in boats without the aid of a stage; but should one be found necessary, it will be erected by the government without delay.

The anchorage for vessels of any size is at "Hoetjes bay," within Saldanha bay, and distant about four miles from Malagas island. Vessels loading may, also, safely anchor at "North Bay," distant about two miles from the island.

Samples of the guano, a plan of Saldanha and Hoetjes bay, showing the position of Malagas island, as also a plan of the island of Malagas, showing the position of the guano, may be seen at the custom house, Cape Town.

Colonial Office, Cape of Good Hope, 5th November 1844.

By His Excellency's Command,

(Signed)

John Montagu,

Secretary to Government.

### *Government Notice.*

Govt. Notice,  
Nov. 20, 1844.

Parishes Drie  
Fontein and  
Victoria.

His Excellency the Governor has, upon the recommendation of the presbytery held at Graaff-Reinet on 17th ultimo, been pleased to approve of the undermentioned boundaries of the new parishes of Drie Fontein, situate in the division of Graaff-Reinet, and Victoria (late Zeekoegat,) situate in the division of Beaufort, viz:

Drie Fontein, from the Farm Dwaal Fontein, northward towards Riet Fontein, along another Riet Fontein, towards Carolus Poort, running along another Riet Fontein towards the boundary of the colony. From the said farm Dwaal Fontein, southward, along Uil Fontein, Hoogmoeds Fontein, Krugers Poort, Boks Fontein, Zaai Fontein, Modder Fontein, Klein and Groot Spanjes Poort, Kuilhoek, Donkerhoek, Scanskraal, Verrege-

legen, and Kook Fontein to Hartebest Fontein. Thence, westward along a ridge towards Rheboks Fontein, de Hoop, Drie Fontein, Groenekloof, Middlekop, Jonkersnek, Mishoek, and Kruid Fontein. On the east side the line runs northwards from Waay Fontein along Tygerhoek, Minder Klaasplaats, Schietkuil, Klein Fontein, Burgers Fontein, Wynands Fontein, Nieuwe Fontein, Kraanvogel Fontein, Vark Fontein and Nieuwejaars Fontein, to the borders of the colony.

Victoria, east from the farm Cypherbult, northwards to Ezels Fontein, Dagga Fontein, Graafwater, Kalk Fontein, Houw Water, and to the border of the colony. South from the said farm Cypherbult to Vlek Fontein, Uitvlugt Fontein, Gabriel's Baken, Faisante Fontein, Taaybosch Fontein, to Waay Fonteinsberg; and thence, northwest, along Spitskop, Abrahams Kraal, Laken Vallei, Roodekop, Gembok Berg and Leeuw Fontein to the borders.

His Excellency has also, upon the same recommendation, approved of the farms Winterberg and the Poortje being, for ecclesiastical purposes, comprehended in, and forming part of, the parish of Beaufort.

Colonial Office, Cape Town, 20th November 1844.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.

Govt. Notice.  
Nov. 20, 1844.

Parishes Drie  
Fontein and  
Victoria.

No. 17, 1844.—(Signed) P. Maitland.

*Ordinance.—For removing certain doubts in regard to certain Ordinances heretofore promulgated in this colony.*

*Preamble.—Certain Ordinances, respecting the validity of which doubts exist, declared valid.*

WHEREAS doubts have arisen whether, under and by virtue of the 31st section of the instructions under the royal sign manual and signet, issued to, and appointed for, His Excellency the Governor, any ordinance promulgated by him in this colony, before Her Majesty's gracious allowance thereof has been by him received and signified to the inhabitants, does, in law, take effect, although intended so to do, from the date of such promulgation, or take effect at all until the time at which such allowance as aforesaid shall as aforesaid be received and signified, unless such ordinance contains a provision enacting that it shall take effect and come into operation as law from the date of its promulgation, or some other fixed time; And whereas, if the said doubts be well-founded, all matters and things done under and by virtue of, or in conformity with, any such ordinance or supposed ordinance, so promulgated as aforesaid, between the date of such promulgation and the date at which the royal

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allowance thereof shall have been received and signified, must be deemed and taken by the several courts of this colony to have been so done without any authority of law: And whereas a clause of the same tenor and effect as the clause aforesaid was, and is, contained in the royal instructions successively issued to, and appointed for, each of the governors who have successively administered the government of this colony since the establishment of a legislative council therein,—to wit, lieutenant general Sir Benjamin D'Urban, K.C.B., and major general Sir George Thomas Napier, K.C.B.: And whereas the certain ordinances hereinafter mentioned have, from time to time, in order to avoid delay, been promulgated by the governor for the time being, before the royal allowance thereof had been received or signified, which ordinances do not, any of them, contain any provision enacting that they shall take effect, and come into operation as law from the date of their promulgation, or at any other fixed time: And whereas no question concerning the validity or invalidity of the said ordinances, or of any of them, or of any part of any of them, has hitherto been, in any manner, raised or mooted by or between any person or persons, in the course of, or as tending to any legal proceeding whatsoever: And whereas it is expedient to remove the doubts aforesaid, as well in regard to all matters and things done under such of the said ordinances as have, since the promulgation thereof, been graciously allowed, but before the time at which such allowance was signified to the inhabitants, as in regard to all matters and things done, or to be done, under such of the said ordinances as still await the communication of Her Majesty's pleasure thereupon: Be it therefore enacted and declared by the governor of the Cape of Good Hope, with the advice and consent of the legislative council thereof, that from and after the promulgation of this ordinance the several ordinances following, that is to say,—the Ordinance No. 6, 1834, entitled, “an ordinance for continuing the provisions of an ordinance bearing date the 14th day of February 1833, entitled an ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain lands and houses, to procure the same to be enregistered as their property in the land register;” and the Ordinance No. 1, 1836, entitled in like manner as the said Ordinance No. 6, 1834; and the Ordinance No. 2, 1836, entitled “an ordinance for rendering valid and effectual all such acts, transfers, mortgages, and other deeds as have been made and passed in the register office between the 16th day of October, 1835, and the 31st day of March, 1836, and which have been certified and enregistered before, and subscribed by, Jan Godlieb Brink, Esq., and William John Mackrill, Esq., and to authorise and empower the governor to appoint an acting regis-



trar of deeds;" and the Ordinance No. 4, 1836, entitled, "an ordinance to indemnify the special justices and other persons in respect of acts done under and by virtue of certain rules bearing date the 15th January 1835, and a certain proclamation bearing date the 1st of May 1835, made and published by the provisional government, and to make those acts valid;" and the Ordinance No. 14, 1836, entitled "an ordinance for abating the nuisance occasioned by dogs roaming at large in and about Cape Town;" and the Ordinance No. 2, 1837, entitled "an ordinance for the more effectual prevention of crimes against life and property within the colony;" and the Ordinance No. 3, 1837, entitled "an ordinance for altering the Ordinance No. 105, entitled 'ordinance of His Excellency the Governor in council, for providing for the due administration and management of the estates and property of minors, lunatics, and persons absent from the colony, and for the proper care of the persons of minors and lunatics,' and dated the 5th day of July 1833;" and the Ordinance No. 7, 1837, entitled "an ordinance for declaring at what stage of the procedure, criminal actions and suits shall be deemed to be pending in the supreme court and circuit courts of the colony;" and the Ordinance No. 8, 1837, entitled "an ordinance for releasing certain property bequeathed to Esther Andrietta Constantia de Roos, from the entail of *fidei commis*;" and the Ordinance No. 10, 1837, entitled "an ordinance for limiting the duration of the powers granted by the Ordinance No. 6, of 1836, entitled 'ordinance for incorporating and establishing the South African association for the administration and settlement of estates,' and dated the 27th day of June 1836, to the said association;" and the Ordinance No. 11, 1837, entitled "an ordinance for establishing, regulating, and providing for the South African College;" and the Ordinance No. 2, 1839, entitled "an ordinance for authorizing the appointment of a vestry and church wardens for St. George's Church, Graham's Town;" and the Ordinance No. 8, 1839, entitled "an ordinance for enabling the board of executors to sue and be sued in the name of their secretary;" and the Ordinance No. 1, 1841, entitled "an ordinance for the better collection, as regards the Town of Cape Town, of certain taxes and duties due and in arrear;" and the Ordinance No. 1, 1842, entitled "an ordinance for authorizing the appointment of a vestry and church wardens for St. Mary's Church, Port Elizabeth;" and the Ordinance No. 2, 1842, entitled "an ordinance for authorizing the appointment of a vestry and church wardens for Sidbury Church;" and the Ordinance No. 3, 1844, entitled in like manner as the ordinances aforesaid No. 6, 1824 and No. 1, 1836; and the Ordinance No. 1, 1843, entitled "an ordinance for amending the law relative to the qualification of jurors;" and the Ordinance

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No. 7, 1843, entitled "an ordinance for repealing the church regulations of the 25th July 1804, and enacting others in their stead;" and the Ordinance No. 10, 1844, entitled "an ordinance for empowering the governor to appoint in all cases, the places at which convicts sentenced to be imprisoned shall be confined;" and the Ordinance No. 12, 1844, entitled "an ordinance to amend the Ordinance No. 8, 1843, entitled 'an ordinance for improving the public roads of this colony,'—shall, respectively, be held and construed, and every act, proceeding matter, and thing already done, or hereafter to be done, in pursuance of, obedience to, or conformity with the said ordinances or supposed ordinances, respectively, shall be taken, esteemed, deemed, and judged of, precisely as if each of the said ordinances had, when promulgated, contained a provision enacting, in apt and proper words, that such ordinance should take effect, and come into operation as law, from and after the date of the promulgation thereof.

*God save the Queen!*

Given at the Cape of Good Hope, this 18th day of December 1844.

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed) K. B. Hamilton,  
Clerk of the Legislative Council.

No. 18, 1844.—(Signed) P. Maitland.

*Ordinance.—For regulating the payment of Transfer Duty in this colony.*

*Preamble.—Proclamation of 2d January 1818, and all other former laws and customs, repealed.*

Ordinance  
No. 18, 1844.

Transfer  
Duty.

WHEREAS the proclamation of the then governor, the right honourable Lord Charles Henry Somerset, bearing date the 2d day of January 1818, has, in some respects, become inapplicable to the circumstances of the colony, and it is therefore expedient to repeal the same, in order to make due provision for the regulation of the payment of duty upon the sale and transfer of immoveable property within this colony: Be it therefore enacted by the governor of the Cape of Good Hope, by and with the advice and consent of the legislative council thereof, that from and after the first day of January 1845, the said proclamation of the 2d day of January 1818, except so far as the same repeals any former laws or proclamations, and all other laws and customs heretofore in force in this colony, touching and concerning the payment of such duty as aforesaid, and the persons by whom, and the dealings and transactions on,

or in respect of, which such duty should be payable, shall be repealed, and the same are hereby repealed accordingly.

Ordinance  
No. 18, 1844.

Transfer  
Duty.

*A duty of 4 per cent payable on Sales of freehold, Quitrent, or other Leasehold Property held from Government.*

2. And be it enacted, that for and in respect of every sale, whether private or public, of any freehold property, or property held of government upon quitrent or other leasehold tenure, (except as in the first schedule hereunto annexed is excepted,) there shall be chargeable upon and payable by the purchaser, a duty of four *per centum* upon the amount of the price of purchase money paid or to be paid for the said property.

*Same duty on such Property changing Proprietors otherwise than by sale and purchase.*

3. And be it enacted, that an equal duty to that aforesaid, to wit: a duty of four *per centum* shall, (except as in the first schedule hereunto annexed is excepted,) be payable upon the value of any such property as aforesaid, by every person becoming entitled to the same, in every case in which it shall change proprietors by way of exchange, donation, legacy, testamentary or other inheritance, or, generally, in any manner whatsoever otherwise than through the medium or by means of purchase and sale.

*What acts to be deemed a change of Proprietors.*

4. And be it enacted, that when and as often as any such property as aforesaid, standing or remaining registered in the deeds' registry office of this colony in the name of any one person, whether alive or dead, shall be removed from the name of that person, and placed or registered in the name of any other person having legal right and title to the same, such removal shall be deemed and taken, for the purposes of the last preceding section of this ordinance, to be a changing of proprietors in regard to such property.

*Joint Owners, prima facie, owners of equal shares.*

5. And be it enacted, that whenever any such property as aforesaid, shall be registered in the name of more persons than one as joint-owners, all the said persons shall be deemed and taken, for the purpose of payment of duty upon or in respect of any sale or alienation by any of them to any other or others of them, to have equal shares and interests in the said property, unless the particular share or interest of each shall be declared and set forth by and upon the title deed or other instrument recorded in the deeds' registry office.

*A duty of 2½ per cent. payable on Sales of Loan Places.*

6. And be it enacted, that upon and in respect of every sale, whether private or public, of the opstal of any loan place, a



Ordinance  
No. 18, 1844.

Transfer  
Duty.

duty of two and one-half *per centum* shall be chargeable upon and payable by the purchaser upon the amount of the price or purchase money of the same.

*Except in Cape Division, civil commissioner to receive the duties.*

7. And be it enacted, that, except in regard to property situated in the Cape division, the duties payable as aforesaid, under and by virtue of this Ordinance, shall be payable to the civil commissioner of the division in which the property changing proprietors shall be situate, who shall grant a receipt for the same.

*Oaths to be required by civil commissioner.*

8. And be it enacted, that no such civil commissioner as aforesaid, shall receive the amount of any such duty as aforesaid, payable upon or in respect of any sale and purchase of any such property as aforesaid, until the seller shall have taken and subscribed the form of oath set forth in the second, and until the purchaser shall have taken and subscribed the form of oath set forth in the third, schedule to this Ordinance annexed, which oaths every such civil commissioner is hereby authorised and required to administer: provided, however, that when any such seller or purchaser shall find it more convenient, the necessary oath may be taken and subscribed before any justice of the peace, (which oath every such justice of the peace is hereby authorised and required to administer,) and such last-mentioned oath being produced and delivered to the civil commissioner as aforesaid, shall be deemed and taken to be of the same force and effect as if it had been taken and subscribed before such civil commissioner himself.

*In regard to Cape division, treasurer general to receive duties.—*

*Registrar of deeds to grant certificate, and administer the necessary oaths.*

9. And be it enacted, that all such duty as aforesaid, payable upon or in respect of property changing proprietors, situated in the Cape division, (which division shall, for the purposes of this ordinance, comprehend Cape Town and the district thereof) shall be payable to the treasurer general of the colony, who shall grant a receipt for the same: Provided, always, that the said treasurer general shall, in no case, receive the amount of any such duty until he shall have received a certificate under the hand of the registrar of deeds, specifying the amount of duty to be paid, and requesting the said treasurer general to receive the same; and provided also, that the said registrar of deeds shall, in no case, grant any such certificate until the respective oaths directed by this Ordinance (which oaths he is hereby authorised and required to administer) shall have been duly taken and subscribed before himself, or, when taken before any justice of the peace, shall have been produced and delivered to the said registrar of deeds.

*Agents may, in certain cases, take the necessary oath.*

10. And be it enacted, that when and so often as it shall appear to the civil commissioner as aforesaid or to the registrar of deeds, that any agent or other person acting for on behalf of any such seller or purchaser of any such property as aforesaid, has himself, in his said capacity, made and entered into the contract of sale or purchase, then it shall be lawful for such civil commissioner or registrar of deeds to demand and receive the oath of such agent or other person as aforesaid, either in lieu of or in addition to, that of his principal, according as such civil commissioner or registrar of deeds shall, under the circumstances of the case, deem fit; and the oath to be taken by every such agent or other person as aforesaid shall be in the form set forth in the fourth schedule to this ordinance annexed, and may be administered by the same persons by whom the other oaths aforesaid may as aforesaid be administered.

Ordinance  
No. 18, 1834.

Transfer  
Duty.

*Cases in which the oath may be dispensed with.*

11. And be it enacted that if, in any case, it shall be made to appear that the seller or the purchaser of any such property as aforesaid has died or departed from the colony, without having taken and subscribed the necessary oath as aforesaid, it shall and may be lawful for the civil commissioner or the registrar of deeds, as the case may be, either to dispense with such oath altogether, or to receive, in lieu thereof, the oath or oaths of such other person or persons as may, under the circumstances of the case, be in a condition to testify to the particular matters to be set forth in such oath.

*Penalty for false swearing.*

12. And be it enacted, that if any person, having taken and subscribed before the registrar of deeds, or any civil commissioner, or any justice of the peace, any of the oaths aforesaid shall knowingly or wilfully have made any false statement therein, such person shall be deemed to be guilty of the crime of perjury, and, upon conviction thereof, shall suffer any punishment by law provided for that crime.

*Penalties for default in payment of duties.*

13. And be it enacted, that the duty chargeable upon every sale or exchange of any property as aforesaid shall be payable within the space or term of six months from the day of the date of such sale or exchange, from and after the expiration of which space or term of six months the persons purchasing or contracting to receive in exchange any such property as aforesaid shall be chargeable with certain further and additional duties proportioned to the length of time during which the payment of the original duty of four *per centum* shall have been delayed beyond the space aforesaid of six months, and which further and addi-

Ordinance  
No. 18, 1844.

Transfer  
Duty.

tional duties shall be chargeable as follows, that is to say, for and on account of

A delay not exceeding 10 days, 2s. per cent for every day.

- „ „ above 10 days, and not exceeding 1 month, 2 per cent.
- „ „ above 1 month, and not exceeding 2 months, 3 per cent.
- „ „ above 2 months, and not exceeding 3 months, 4 per cent.
- „ „ above 3 months, and not exceeding 4 months, 5 per cent.
- „ „ above 4 months, and not exceeding 5 months, 6 per cent.
- „ „ above 5 months, and not exceeding 6 months, 8 per cent.

*When duties unpaid for 12 months, interest to be charged at the rate of 10 per cent. per annum.*

14. And be it enacted, that in any case in which the duties in the last preceding section mentioned shall not be paid within the space or term of twelve months from the day of the date of the sale or exchange, upon or in respect of which such duties shall have accrued due, then the amount of such duties, together with a further sum equal to interest thereupon at the rate of 10 per cent per annum, computed from the day at which such period of twelve months shall have expired, shall thenceforth become chargeable upon or against the party in default.

*When valuation necessary, how the same is to be made.*

15. And be it enacted, that for the purposes of ascertaining the value of all such property as aforesaid changing proprietors otherwise than through the medium or by means of sale and purchase, and chargeable with duty under the provisions of this ordinance, it shall be the duty of the civil commissioner of the division in which the property shall be situated to appoint some competent and disinterested person or persons to ascertain, upon oath, the just and fair value of such property; and the reasonable expenses of such valuation shall be payable by the person chargeable with the payment of the duty; and the amount at which such valuator or valutors shall value the said property shall be the amount upon which duty shall be chargeable; Provided, however, that nothing herein contained shall be held or taken to prevent any person who shall conceive himself aggrieved from bringing such valuation in review before any court having jurisdiction.

*Certain cases of sale in which a valuation may be resorted to.*

16. And be it enacted, that when, in any case of sale and purchase of any such property as aforesaid, (not being a sale or purchase by public auction, made *bona fide* and without collusion,) it shall appear to the civil commissioner who is to receive the duty, that the price or purchase money of the same is considerably less than its just and fair value, it shall be competent for the said civil commissioner to cause a valuation of the said property to be made in manner and form as in the last preceding section mentioned; and in case the value, ascertained



as aforesaid, shall exceed the amount of the said price or purchase money by one-third of the amount of such price or purchase money, then the amount of such valuation shall, for the purposes of this ordinance, be deemed and taken to be the price or purchase money of such property; and duty thereupon, together, with the reasonable expenses of such valuation, shall be paid by the purchaser; But in case such value shall not exceed the said price or purchase money, to the extent of one third thereof, then duty shall be read upon such price or purchase money, and the expense of the valuation shall be borne by government. Provided, however, that nothing herein contained shall be held or taken to prevent any purchaser who shall conceive himself aggrieved, from bringing such valuation in review before any court having jurisdiction.

Ordinance  
No. 18, 1841.

Transfer  
Duty.

*Mode of proceeding when exemptions from payment of duty are claimed.*

17. And be it enacted, that whenever any person requiring to have any transfer or change of name effected in the deeds' registry office of this colony, shall claim to be exempted from the payment of duty under and by virtue of any of the exemptions mentioned and contained in the first schedule to this ordinance annexed, it shall be the duty of the registrar of deeds to require due proof of all facts and circumstances by reason or on account of which such exemption is demanded, and he is hereby empowered to administer, when it shall seem to him necessary, an oath to such person or persons as shall come before him to give evidence or make any statement touching the claim to any such exemption, and he may also require the production of any deeds or instruments connected with the case, and tending to show whether or not such exemption ought by law to be allowed.

*Disputes in regard to exemptions to be decided by a judge in chamber.*

18. And be it enacted, that when and as often as any question shall arise between the registrar of deeds and any person claiming to be entitled to any such exemption as aforesaid, regarding the right to such exemption, or the extent of that right, or, generally, any matter concerning the amount upon which any such person should justly and legally be chargeable with duty, it shall and may be lawful for the chief justice of the colony, or any other of the judges of the supreme court, sitting in chamber, to hear the said registrar of deeds and the said person (or any person or persons representing each respectively) as to the matter in question, and to examine the proofs, if any, which shall have been offered in support of the claim to exemption, and to call for such further proof as may be necessary, and, in a summary manner, to make, if he shall so think fit, such order in the premises as shall to justice appertain, which

order shall be binding and conclusive: provided always that every such judge as aforesaid may direct any such question as aforesaid to be brought, by way of motion, before the supreme court, in order that the same may be heard and determined by the said court.

*Persons burthened with fidei commissum to pay duty on the value of their interest.*

19. And be it enacted, that all persons having a right to the limited enjoyment of property burthened with the entail *fidei commissum*, shall, except as in the first schedule hereto is excepted, be chargeable and liable to pay the duty applicable to the species of property in question, upon the value of their estates or interests in such property, to be calculated with reference to the value of the property, and the duration or extent of their interest therein, and such duty shall be recoverable whether such persons shall or shall not seek to have their said estates or interests registered in their names in the deeds' registry office.

*Duties, by whom recoverable.*

20. And be it enacted, that all duties chargeable under and by virtue of this ordinance shall be recoverable by the proper officer to whom, under and by virtue of this ordinance, the particular duty in question shall be payable, by action or suit in any competent court, and that no property liable to duty shall be transferred in the office of the registrar of deeds until the receipt of the proper officer for the payment of the duty shall have been produced to, and deposited with the said registrar.

*All previous payments valid.*

21. And be it enacted, that all monies heretofore paid and received as, for, or by way of transfer-duty payable, or supposed to be payable, in this colony shall be deemed and taken to have been duly and lawfully received and paid.

*Duties now due to remain recoverable.*

22. And be it enacted, that all transfer duties and penalties heretofore incurred, and still unpaid shall remain and continue recoverable in the same manner as if this ordinance had never passed, but the same may be sued for in like manner as if such duties had been incurred under the provisions of this ordinance.

*When oaths prescribed by Proclamation of 2d of January 1818, have been already taken, no further oath to be necessary.*

23. And be it enacted, that if in any case of sale and purchase heretofore perfected, the oaths by the said proclamation of the 2nd of January 1818, prescribed, or either of them, have already been taken and subscribed, such oaths or oath shall be deemed and taken to be of the same force and effect with the oaths or oath which should, in the like case, be taken and sub-

scribed under this ordinance, and no other oath shall be necessary; but, in all cases of sale and purchase in which no oath shall yet have been taken or administered, the oaths to be taken and subscribed shall be those directed by this ordinance, and none other.

Ordinance  
No. 18, 1844.

Transfer  
Duty.

*Interpretation clause.*

24. And be it enacted, that in the interpretation of this ordinance, the terms treasurer general, civil commissioner and registrar of deeds shall, respectively, mean the officers for the time being acting as such, and that the term government shall mean the local executive government of this colony, and that the singular number shall include several persons as well as one person, and that the masculine gender shall include females as well as males.

*Time of commencement of this Ordinance.*

25. And be it enacted, that this ordinance shall take effect and have operation from and after the first day of January in the year of our Lord 1845.

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[Schedule No. 1.]

A.—A surviving spouse purchasing the joint-estate, as enjoyed in community of property together with the deceased, shall not be charged duty upon the proceeds of his own half of the estate

B.—When any person appearing upon the deeds' registry to be a joint-owner of any property shall purchase that property, he shall not be charged with duty upon that proportion of the purchase money which represents his individual share or interest.

C.—Any person being a descendant of any deceased person, and who would be the heir, or one of the heirs, *ab intestato*, of such deceased person, who shall, being entitled as an heir in the estate, purchase or make over the immoveable property of the estate, shall not be chargeable with duty upon the proceeds or value of his own share, as such heir, in the property so purchased, or taken over; and the husband of any such heir, or the tutor, curator, or authorized agent or trustee, purchasing for and in the name of any such heir shall be deemed, and taken to be, such heir for the purpose of this exemption.

D.—Every surviving spouse, being either the sole or a joint heir of any deceased spouse, shall be entitled to the same exemption, as that last declared.

E.—The heir or heirs of any deceased person, being such person or persons as have been above described under letters C. and D, who shall require to have any of the immoveable property inherited from the deceased, removed from the name



Ordinance  
No. 17, 1844.

Transfer  
Duty.

of the deceased into his or their own name or names, may have it so removed without the payment of any duty.

F. In every case in which any one person shall, by the records in the deeds' registry office, appear to be merely trustee for any other person, whether the latter shall be a minor or a major, or under coverture or not, the property so held in trust may be removed from the name of the trustee to that of the other party being entitled to have it so removed, without the payment of any duty.

G.—In every case of voluntary or compulsory partition between joint-owners of immoveable property, all changes in the records of the deeds' registry required for the due registration of the separate shares to be held by each in severalty, shall be made without the payment of any duty.

H.—Any person being a descendant, or a surviving spouse of any person, who shall, by will or otherwise, have burthened any immoveable property with the entail of *fidei commissum* in regard to such descendant or surviving spouse, so that the latter shall be entitled only to a life or other limited interest in such property, may have his title to such limited interest recorded in the deeds' registry office, without the payment of any duty.

I.—Any person claiming free property in remainder after the expiration or extinction of any previous *fidei commissum* burthening such property, may, in case such person be a descendant within the fourth degree of the person imposing such *fidei commissum*, have the said property registered as his own in the deeds' registry office, without the payment of any duty.

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[Schedule No. 2.]

*Form of Oath for Seller.*

I, A. B., do solemnly, in the presence of Almighty God, profess, testify, and declare that the sum of £            is the full and entire purchase money for which I have sold (*here describe the property*) to C. D., and I swear that I sold the same to the said C. D. on the            day of            18    , and not before, and that I am not to receive any other valuable consideration for or in respect of the alienation of the said property; and I do further make oath that the said C. D. is the only person who has ever purchased the said property from me, and that I never sold the same to any other person; and all this I swear without any evasion or mental reservation, in the plain and ordinary meaning of the words, to be the truth, the whole truth, and nothing but the truth,—So help me God!

(Signed)            A. B.

Sworn, &c.

## [Schedule, No. 3.]

*Form of Oath for Purchaser..*Ordinance  
No. 18, 1844Transfer  
Duty.

I, C. D., do solemnly, in the prosence of Almighty God, profess, testify, and declare, that the sum of £        is the full and entire purchase money, given or to be given by me to A. B., for (*here describe the property*) bought by me from him; and I swear that I bought the same from the said A. B., on the        day of        18        , and not before; and that I have not, nor has any person, to my knowledge, on my account, given, nor is there by me, or on my behalf, to be given, any other valuable consideration of any kind whatever, for or in respect of the alienation to me of the said property; and all this I swear without any evasion, or mental reservation, in the plain and ordinary meaning of the words, to be the truth, the whole truth, and nothing but the truth,—So help me God!

Sworn, &amp;c.

(Signed)

C. D.

## [Schedule, No. 4.]

*Form of Oath for an Agent.*

I, E. F., do solemnly, in the presence of Almighty God, profess, testify, and declare that I have acted as the agent of A. B., (or C. D.,) in the making of the sale (or purchase) of (*here describe the property*) sold by the said A. B. to the said C. D., and that I know, of my own knowledge, the amount of the purchase money thereof; And I do further swear that the said sale (or purchase) was made on the        day of        18        and not before; and that the sum of £        to be paid by the said C. D. to the said A. B., is, to the best of my knowledge and belief, the full and entire purchase money to be given and received by the said persons respectively, in regard to the alienation of the said property, by the one of them to the other of them; and that to the best of my knowledge and belief, no further or other valuable consideration has been given, or is to be given by, or on behalf of the said C. D., to, or on behalf of the said A. B., for, or in respect of the said property; and all this I swear without any evasion or mental reservation, in the plain and ordinary meaning of the words, to be the truth, the whole truth, and nothing but the truth,—So help me God!

Sworn, &amp;c.

(Signed)

E. F.

*God save the Queen!*

Given at the Cape of Good Hope, this 26th day of December, 1843.

By Command of His Excellency the Governor,

(Signed)

John Montagu,  
Secretary to Government.

By Order of the Legislative Council,

(Signed)

K. B. Hamilton,  
Clerk of the Legislative Council.

## [ADDENDA TO THIS VOLUME.]

*Government Notice.*

Port. Notice,  
Nov 8, 1843,  
Redemption  
Quitrents.

NOTICE is hereby given to the owners of quitrent places, that upon written application to this office, before the end of the current year, his Excellency the governor will consent to the redemption of the rent, and the conversion of the tenure of the land into freehold, upon the following terms and conditions:—

1. Payment to the civil commissioner of the division in which the land is situated, of a sum equal to 15 years' purchase of the rent and stamps: one half thereof to be paid between the 1st January and 1st February 1844, and the remaining half between the 1st July and 1st August following, without interest.

2. Payment before the 1st April next, of all rent due on and up to the 31st December of the present year.

3. The conversion of the tenure into freehold will not be directed, until proof be adduced that the two preceding conditions have been fulfilled: and in the event of the non-payment of the second instalment within the period prescribed, the first instalment will become forfeited, and the quitrent remain payable annually as heretofore.

As it is not intended to sanction the redemption of the quitrents beyond the sum of £40,000, the several applications will be numbered as they arrive at this office, and the conversion of the tenure will be approved in their order of priority of receipt, but to the extent only of the sum herein above specified. Due notice will be given to those applicants who will thus be admitted to participate in this arrangement.

Holders of loan places who may be desirous to have such tenure converted into freehold, will be pleased to notify their wishes, in that respect, to this office, before the 31st December next, when the usual steps will be taken to assess the annual sum which would be payable on quitrent, and upon that assessment the amount of the redemption money will be fixed, and the freehold title issued upon the same conditions and arrangements as those above stated in regard to quitrent lands.

Colonial Office, Cape of Good Hope, 8th November 1843.

By His Excellency's Command,

(Signed) John Montagu,

Secretary to Government.



*Minute.—Finance.*Govt. Minute  
Nov. 7, 1843.

Finance.

7th November 1843.

UPON several occasions I have brought to your consideration the subject of the colonial debt, and I have not failed to communicate the instructions I have received upon it from Her Majesty's Government, and the anxiety expressed by the Secretary of State for its liquidation.

The debt incurred by the issue of sterling promissory notes was originally £202,698; £131,602, having been redeemed, there remain £71,086 to be cancelled.

There is also a sum of £18,396 due to the British Government, making together £89,482.

To discharge this debt the Government holds recoverable securities of the long loan, storm, and agricultural funds to the extent of . £ 5,630

Arrear taxes in course of collection, . 18,089

Arrear land rents, . 15,272

Payments from the guardians and late orphan chamber, irrespective of the ordinary revenue, derived therefrom, . 8,815

Prize negro fund, . 2,400

Unpaid advances to other Governments or Individuals, . 2,394

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Making a Total of £ 52,600

I have approved of the redemption of land rents to the extent of £40,000, and these sums together will, I have reason to hope, be received within two years from this time, and the whole debt liquidated without having recourse to any portion of the ordinary revenue annually submitted to you for appropriation.

In accordance with the instructions of Her Majesty's Government, I have issued a notice offering to exchange the Government paper now in circulation for debentures bearing interest at the rate of 5 per cent per annum, or to exchange that paper for specie on demand at the treasury for the purpose of cancellation.

So far as the means I have enumerated at the disposal of the Government for liquidating the debt have reference to the proposed appropriation of the arrear taxes and land rents, I feel no doubt of your acquiescence and co-operation.

In order to avoid the inconvenience to which mercantile and other parties might be subjected by an entire and sudden suspension of the commissary general's drafts upon the Lords commissioners of Her Majesty's treasury, in exchange for the Government paper upon its cancellation, Her Majesty's Government have issued the necessary directions which will be notified to the public by the deputy commissary general.

(Signed) George Napier, Governor.

Govt. Minute  
Nov. 7, 1843.

Finance.

Resolved.—That this council approves of the application of the arrear taxes and arrear land rents towards the redemption of the Government paper currency.

8th November 1843.

*Proclamation by His Excellency Major General Sir  
George Thomas Napier, K.C.B.*

Proclamation  
Nov. 9, 1843.

Colonial  
Paper Cur-  
rency.

WHEREAS in and between the years 1832 and 1839, the Government of the colony of the Cape of Good Hope did issue and put into circulation within the said colony, certain promissory notes varying from one to one hundred pounds in sterling value, to the amount in the whole of £202,698, under the guarantee of Her Majesty's Government, that those notes would, on demand, be exchanged at Cape Town by the officer in charge of the commissariat department for bills on Her Majesty's treasury, at the rate of £101 10 in notes, for a bill of £100 :

And whereas £131,612 of the said notes have since been withdrawn from circulation, and cancelled, leaving a sum of £71,086 still in circulation : And whereas it is expedient that the guarantee of Her Majesty's Government, in reference to the said sum of £61,086, should be withdrawn, and that means should be provided for the payment of the said notes :—Now, therefore, I do proclaim, make known, and direct, that, from and after the 15th day of November instant, the said guarantee shall be withdrawn, and the same is hereby withdrawn accordingly ; but the notes aforesaid will continue to be received into, and paid out of, the commissariat chest in all transactions with that department at their full sterling value, and will, in like manner, continue to be received in exchange for such bills upon Her Majesty's treasury as the officer in charge of the said chest may require to draw, and be held and considered in every respect as specie.

And whereas it is expedient to provide for securing the convertibility of the said notes into specie or Government debentures, at the will of the holder,—I do also proclaim and make known, that I have authorised the treasurer general to exchange any of the said notes which may be presented to him for specie on demand at the colonial treasury ; or, at the option of the holders, to exchange the said notes at par, for Government debentures of £50 or £100 each, bearing interest at the rate of five pounds per cent per annum, payable half-yearly, namely, on the 15th day of May and the 15th day of November, respectively, in each year ; and that I have further authorised the said treasurer general to receive specie in exchange for similar debentures to the amount of £10,000 in sterling money of Great Britain.

And I do further proclaim, make known, and direct, that the said debentures, so issued by the treasurer General, whether in exchange for Government promissory notes or for specie, shall be issued in numerical order according to their priority in date, and be redeemable at the pleasure of the Governor for the time being, in the inverse order of their numbers, namely, that by which the last in number shall be the first to be called in and paid off.

Proclamation  
Nov. 9, 1843.

Colonial  
Paper Cur-  
rency.

*God save the Queen.*

Given under my Hand and the Public Seal of the Settlement, at Cape Town, Cape of Good Hope, this 9th day of November 1843.

(Signed) George Napier,

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.

*Proclamation by His Excellency Major-General Sir  
George Thomas Napier, K C. B.*

WHEREAS by Ordinance No. 7, 1843, this day published, entitled "an ordinance for repealing the church regulations of the 25th July 1804, and enacting others in their stead," the said regulations of the 25th July 1804 are repealed. And whereas it is not intended that such repeal should affect, or interfere with, the several salaries and allowances heretofore contributed by government in support of the Dutch reformed church of this colony, which salaries and allowances, it is proposed to continue as usual;—Now, therefore, I do hereby proclaim, declare, and make known, that the several salaries and allowances which have in time past, been granted from and out of the colonial revenue, in behalf of the Dutch reformed church, will (subject however to the provisions of the said ordinance this day published) continue to be contributed in time to come; and that no intention exists on the part of government, to withdraw the aid, support, and countenance heretofore bestowed upon the said Dutch reformed church.

Proclamation  
Sept. 10, 1843.

Church  
Regulations.

*God save the Queen!*

Given at the Cape of Good Hope, this 10th day of November 1843.

(Signed) George Napier,

By Command of His Excellency the Governor,

(Signed) John Montagu,  
Secretary to Government.





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